TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1935

No. 375

NETTIE MEYER, ANNA JACOBSON, JACOB MEYERHOFF, ET AL., PETITIONERS,

vs.

KENMORE GRANVILLE HOTEL COMPANY ET AL.

No. 376

NETTIE MEYER, ANNA JACOBSON, JACOB MEYERHOFF, ET AL., PETITIONERS,

vs.

KENMORE GRANVILLE HOTEL COMPANY ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

PETITION FOR CERTIORARI FILED AUGUST 17, 1935.

CERTIORARI GRANTED OCTOBER 14, 1935.

IN THE

United States Circuit Court of Appeals
For the Seventh Circuit

No. 5491

IN THE MATTER OF KENMORE-GRANVILLE HOTEL COMPANY, A CORPORATION, DEBTOR.

NETTIE MEYER,

Appellant,

vs.

KENMORE-GRANVILLE HOTEL COMPANY, A CORPORATION, J. GOLD, R. SANDROFF, AND S. ISENBERG, PETITIONING CREDITORS, AND GEORGE W. ROSSETTER, JAY C. McCORD, SIDNEY H. KAHN, MEMBERS OF THE SOVEREIGN AND SOVEREIGN ANNEX FIRST MORTGAGE BONDHOLDERS' COMMITTEE,

Appellees.

Counsel for Appellant:

MR. MEYER ABRAMS,

Counsel for Appellees:

MR. IRVING H. FLAMM,
MR. MAX FREDERICK GOLDBERG,
MR. BERNARD NATH,
MR. HERBERT M. LAUTMANN,
MR. I. E. FERGUSON,
MR. ARTHUR M. COX,
MR. CLAUDE A. ROTH,
MR. WILLIAM J. FRIEDMAN,

Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division.

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1 Pleas in the District Court of the United States for the Northern District of Illinois, Eastern Division, begun and held at the United States Court Room, in the City of Chicago, in said District and Division, before the Honorable John P. Barnes, District Judge of the United States for the Northern District of Illinois on the 20th day of March, in the year of our Lord one thousand nine hundred and thirty-five, being one of the days of the regular March Term of said Court, begun Monday, the Fourth day of March, and of our Independence the 159th year. Placita.

Present:

Hon. John P. Barnes.
William H. McDonnell, U. S. Marshal.
Henry W. Freeman, Clerk.

2 IN THE DISTRICT COURT OF THE UNITED STATES.

Northern District of Illinois.

Eastern Division.

In the Matter of
Kenmore-Granville Hotel Company,
a corporation,
Debtor. } No. 58701

Be It Remembered, that the above-entitled action was commenced by the filing of the following Creditors' Petition in the above-entitled cause in the office of the Clerk of the District Court of the United States for the Northern District of Illinois, Eastern Division, on this the 4th day of February, 1935.

Feb. 4, 3 IN THE DISTRICT COURT OF THE UNITED STATES.

* * (Caption—58701) * *

To the Honorable the Judges of Said District Court:

Your petitioners, J. Gold and R. Sandroff, both of the City of Chicago, County of Cook, and State of Illinois, and S. Isenberg, of Grenada County, in the State of Mississippi, respectfully represent:

1. Kenmore-Granville Hotel Company, the above named debtor, is a commercial corporation organized under the laws of the State of Illinois, which could become a bankrupt under Section 4 of the Act of Congress entitled "An act to establish a uniform system of bankruptcy throughout the United States" approved July 1, 1888, and acts amendatory thereof and supplementary thereto (herein referred to as the bankruptcy act); and said debtor is a corporation which could file a petition or answer under section 77-(b) of said bankruptcy act and be eligible for the relief provided thereunder.

2. The debtor has had its principal place of business and its principal assets in the City of Chicago, in the County of Cook, and State of Illinois, during the six months immediately preceding the date of this petition.

4 3. The debtor is a building corporation and owns real estate in the City of Chicago, County of Cook, and State of Illinois, (within the territorial jurisdiction of this court), legally described as:

The south thirty-seven and one-half (37½) feet of lot eight (8), all of lots nine (9), ten (10), eleven (11), and twelve (12), all in Block six (6) in Cochran's Second Addition to Edgewater, said Addition being a subdivision of the East fractional half (except the West one thousand three hundred twenty (1,320) feet of the South one thousand nine hundred thirteen (1,913) feet thereof), of Section five (5), Township forty (40) North, Range fourteen (14), East of the Third Principal Meridian,

which real estate is improved with two buildings as follows:

(a) A ten story brick and stone building erected on the south portion of the above described real estate, on or about the year 1919, containing divers hotel rooms and apartment units, including all equipment, furniture, and furnishings, said building having at the date of its erection been designated as the "Sovereign."

(b) A ten story brick and stone building erected on the north portion of the above described real estate, on or about the year 1922, improved with divers hotel apartment units, including all equipment, furniture, and furnishings, said building having at the time of its erection been designated as the "Sovereign Annex."

4. That said property described above as the "Sovereign" is subject to a first mortgage lien evidenced by a trust indenture to Arthur W. Straus, Trustee, (who has since been succeeded by Melvin L. Straus, successor trustee,) dated

5 November 1, 1919, and recorded on the 22nd day of December 1919, in the office of the Recorder of Deeds of Cook County, Illinois, as Document No. 6699724; that said trust indenture was executed to secure first mortgage bonds aggregating One Million Dollars ($1,000,000.00), of which first mortgage bonds in the aggregate principal amount of Five Hundred Seventy-Five Thousand Dollars ($575,000.00) are still unpaid and outstanding among numerous creditors, who are scattered in various communities within the State of Illinois and elsewhere, most of them being unknown to your petitioners, or to each other; that in addition to said Five Hundred Seventy-Five Thousand Dollars ($575,000.00) first lien bonds, there are outstanding mortgage bonds on which there is unpaid some One Hundred Thirty-Seven Thousand

Dollars ($137,000.00), but which, your petitioners allege, are subordinate and inferior to the lien of the outstanding first mortgage bonds aforesaid.

5. That said property described above as the "Sovereign Annex" is subject to a first mortgage lien evidenced by a trust indenture to Melvin L. Straus, Trustee, (who has since been succeeded by Samuel J. Straus, successor trustee,) dated August 1, 1922, and recorded on the 16th day of November, 1922, in the office of the Recorder of Deeds of Cook County, Illinois, as Document No. 7717203; that said trust indenture was executed to secure first mortgage bonds aggregating One Million Dollars ($1,000,000.00), of which first mortgage bonds in the aggregate principal amount of Seven Hundred Ninety-Eight Thousand Dollars ($798,000.00) are still unpaid and outstanding among numerous creditors, who are scattered in many communities in the State of Illi-
6 nois and elsewhere, most of them being unknown to your petitioners, or to each other; that in addition to said Seven Hundred Ninety-Eight Thousand ($798,000.00) Dollars of first lien bonds, there are outstanding mortgage bonds on which there is unpaid some One Hundred Two Thousand Dollars ($102,000.00), but which, your petitioners allege, are subordinate and inferior to the lien of the outstanding first mortgage bonds aforesaid.

6. That said two properties above described as the "Sovereign" and "Sovereign Annex," owned by the debtor, have at all times since their erection been operated together as one entire hotel unit under the style name of "Sovereign Hotel"; that said two buildings are immediately adjacent to, and are connected with each other, and that the nature of their construction and location is such as to render it necessary that both of said properties be at all times in the future operated as one entire project, in order to best serve the creditors and stockholders of the debtor; that said two properties are heated by a single heating plant, which permits the said entire property to be heated with greater economy; that said properties have at all times been operated by one management, thus affording greater economy and efficiency in the operation of same.

7. That about the year 1931, due to a decline in rents and other causes, default was made in the payment of principal and interest required under the first mortgage trust indenture on the "Sovereign" above mentioned, and, by reason of said default, the Trustee under said mortgage indenture, on

behalf of all the bondholders thereby secured, declared the entire indebtedness immediately due and payable, and in
7 April, 1931, filed a proceeding to foreclose said mortgage lien in the Circuit Court of Cook County, Illinois, as Case No. B-219230, which proceeding is still there pending.

8. That about the year 1931, due to a decline in rents and other causes, default was made in the payments of principal and interest required under the first mortgage trust indenture on the "Sovereign Annex" above mentioned, and, by reason of said default, the Trustee under said mortgage indenture, on behalf of all the bondholders thereby secured, declared the entire indebtedness immediately due and payable, and in April, 1931, filed a proceeding to foreclose said mortgage lien in the Circuit Court of Cook County, Illinois, as Cose No. B-218773, which proceeding is still there pending.

9. That in each of said separate proceedings decrees were entered fixing the respective amounts due to the respective complainants, including all costs, expenses, and fees incurred in said proceedings, and requiring that said respective properties each be sold under said respective decrees to satisfy the respective amounts found to be due thereunder, all of which will more fully appear from said proceedings and the orders and decrees entered therein and spread of record, said proceedings and all orders therein being by reference made a part hereof.

10. That in addition to the encumbrances secured by the trust indentures as aforesaid, there are tax liens in favor of the County of Cook on said premises for arrears in general taxes levied against the entire property, as follows:

Unpaid balances of approximately $10,000.00 for the
8 year 1929; $15,000.00 for 1930; $30,000.00 for 1931, $23,600.00 for 1932, and $10,000.00 for 1933, together with accrued statutory penalties on said unpaid taxes;

that by reason of said tax arrears, Thomas D. Nash, County Treasurer and ex officio County Collector of said County of Cook, was on, to-wit, the 14th day of August, 1934, appointed tax Receiver for said premises in a proceeding then pending in the Circuit Court of Cook County, known and docketed as Case No. 34-C-13891, to enforce said tax liens and for the purpose of appointing such tax Receiver for said premises, which proceeding is still pending; that said Thomas D. Nash is now acting as such Receiver, and collecting the income from said premises and is, presumably, applying the net income on said tax liens.

11. That during the year 1931 a bondholders' committee was organized for the alleged purpose of representing and protecting the interests of the bondholders of said "Sovereign" property and during said year a bondholders' committee was likewise organized for the "Sovereign Annex" mortgage bonds; that pursuant to the terms of a depositary agreement, about 95% of all first mortgage bonds outstanding on said "Sovereign," and pursuant to the terms of another depositary agreement, about 95% of all first mortgage bonds outstanding on said "Sovereign Annex," have been deposited and are now on deposit with the American National Bank and Trust Company, as Depositary, said bonds being now under the control of said Committees, pursuant to said depositary agrements. A copy of such depositary agreement relating to the "Sovereign" is hereto attached as Exhibit "E", the depositary agreement with respect to the "Sovereign Annex" being substantially similar, except for approporiate changes in name, description of the property, and bonds.

9 12. That on or about February, 1935, George W. Rossetter, Jay C. McCord, and Sidney H. Kahn, who comprise all of the members of said Bondholders' Committees on said "Sovereign" and "Sovereign Annex," formulated a joint plan of reorganization for said project, and subsequently mailed a copy of said plan, or a description or summary thereof, to the owners of said bonds, a copy of which notice and summary of said plan is hereto attached as Exhibit "F" and made a part hereof; that the owners and holders of more than two-thirds of the first mortgage bonds outstanding against each of said properties thereupon assented to said plan of reorganization.

13. That although your petitioners deem the essential features of said joint reorganization plan, heretofore submitted by said Committees, except as hereinafter stated) to be fair and equitable to all classes of creditors and to the stockholders of the debtor, they believe that said Bondholders' Committees and said Trustees under the respective first mortgage trust indentures on said properties will not be able to consummate said plan without long and burdensome delay and irreparable loss, except by a proceeding herein under the powers and authority conferred upon this Honorable Court by Section 77-(b) of the Bankruptcy Act as amended; that only by mean of a proceeding herein can such reorganization be effected without resorting to separate foreclosure sales

under the separate mortgages against each of said two units at a great sacrifice to creditors.

14. A brief description of the assets, liabilities, capital stock, and financial condition of the debtor is contained in the following exhibits annexed hereto and made a part hereof:

10 Exhibit "A"—A balance sheet of said entire project operated as the "Sovereign Hotel," prepared for Thomas D. Nash, Receiver, by McCoy, Holland, Arndt & Sweeney, certified public accountants, showing its condition as of October 31, 1934; that since said date there has been no material change in debtor's financial condition.

Exhibit "B"—A statement prepared by McCoy, Holland, Arndt & Sweeney, certified public accountants, for said Thomas D. Nash, Receiver, showing the earnings and expenses of said "Sovereign Hotel" for the month of October, 1934, and also for the ten (10) month period ending October 31, 1934.

15. That your petitioners are each bond owners and creditors of the debtor and own an aggregate of Seven Thousand Dollars ($7,000.00) in first mortgage bonds on said "Sovereign" property, and an aggregate of Eight Thousand ($8,000.00) Dollars in first mortgage bonds on said "Sovereign Annex" property, all of which are obligations of the debtor; that your petitioners, as such creditors of the debtor, have provable claims against the debtor, aggregating over One Thousand ($1,000.00) Dollars in excess of the value of the securities held by them; that this petition is filed in good faith and is not for the purpose of obtaining any preference or improper advantage for any one creditor over another, save as such creditors are lawfully entitled to such preference, if any, by virtue of any lien or securities or otherwise.

16. That the debtor, being unable to pay its matured debts, has, within four months prior to the filing of this petition, admitted in writing its inability to pay its debts; that by reason of its inability to pay its tax obligations, said

11 Thomas D. Nash, who was appointed Receiver of said property by the Circuit Court as aforesaid, has taken charge of and is now in possession of the debtor's said property; that by reason of the aforesaid, the debtor has expressed in writing its willingness to submit to a reorganization under the provisions of said Section 77-(b) of the Bankruptcy Act.

17. The facts showing the debtor's need for relief under

Section 77-(b) of the said bankruptcy act as amended, in addition to the facts above alleged, are as follows:

(a) The debtor is insolvent or unable to meet obligations which have matured. Debtor has insufficient cash working capital to meet its fixed charges and accrued taxes, and by reason of its default in the mortgage encumbrances as above mentioned, its credit is seriously impaired, so that it will be difficult, if not impossible, to obtain adequate financial assistance from any source.

(b) A readjustment of the debtor's capital structure is necessary, so that the debtor's income under present day conditions will be adequate to meet fixed charges.

(c) Such reorganization for the interest and benefit of all creditors and stockholders, can best be effected under the direction, authority, and jurisdiction conferred by the provision of Section 77-(b) of said bankruptcy act, thereby avoiding unnecessary delay, expense, waste, uncertainty, and opportunities for oppression by stubborn and unreasonable minority creditors, all of which might be possible but for the provision of said Section 77-(b) of the bankruptcy act.

18. Your petitioners believe that the plan of reorganization heretofore submitted by the Bondholders' Committees as aforesaid, and described in Exhibit "F" herein, should be modified and amended so as to permit the majority of the holders of voting trust certificates, provided under said plan, to elect successor Trustees, or to terminate said trust agreement at any time, and that said plan should be further modified and amended in such other respects as may be necessary in order to conform to the provisions of said Section 77-(b) of the Bankruptcy Act as amended; and your petitioners believe that said plan, if so amended and modified, will be feasible and will be fair and equitable to all classes of creditors and stockholders, and that such amended and modified plan will be acceptable to creditors holding more than two-thirds in amount of the claims of each class against the debtor and to the holders of a majority of each class of stock of the debtor.

Wherefore, your petitioners pray that an order be entered herein:

(1) Approving this petition as properly filed under said Section 77-(b) of the bankruptcy act as amended.

(2) Requiring the debtor to make answer to this petition within ten days after the service upon it of a copy hereof.

(3) That the Court enter such order as it may deem ap-

propriate with respect to the management of the debtor's property pending the consummation of a reorganization hereunder.

(4) That the debtor be directed to give such notice to all its creditors and stockholders, as the Court may deem proper, of a hearing to be held by the Court within thirty days after approval of this petition for the consideration of whether the debtor shall be permitted to operate said property or a trustee appointed thereof, etc.

(5) That this Honorable Court shall direct the debtor
13 corporation to file such schedule and submit such other information as may be necessary to disclose the conduct of the debtor's affairs and the fairness of any proposed plan.

(6) That this Court, after hearing objections, if any, to any plan herein proposed, shall confirm the plan, if satisfied that compliance has been made with the provisions of Section 77-(b) of said bankruptcy act as amended.

(7) That this Honorable Court shall enjoin or stay the commencement or continuance of any judicial proceeding now pending against the debtor or for the purposes of enforcing any lien upon the estate of the debtor, or any part thereof.

(8) That your pettioners may have such other, further, and different relief as to the Court may seem just, lawful, and proper.

J. GOLD,
R. SANDROFF, and
S. ISENBERG,
By IRVING H. FLAMM.

TARNOPOL, FLAMM & SIDEMAN,
Attorneys for said Petitioning Creditors.

14 State of Illinois, } ss.
County of Cook. }

IRVING H. FLAMM, being first duly sworn on oath, deposes and says that he is the duly authorized agent and one of the attorneys for the petitioning creditors mentioned in the aforegoing petition; that he has been authorized by said petitioning creditors to sign said petition for and in their behalf and to execute this affidavit thereto; that the facts stated and contained in the aforegoing petition are true to the best of his knowledge and belief.

IRVING H. FLAMM.

Subscribed and sworn to before me this 4th day of February, A. D. 1935.

.....

Notary Public.

15 • • EXHIBIT A. • •

16 • • EXHIBIT B. • •

(Omitted pursuant to stipulation filed April 16, 1935.)

21-41 • • EXHIBIT E. • •

(Omitted pursuant to stipulation filed April 16, 1935 and following matter inserted in lieu thereof.)

EXHIBIT "E."

This Agreement, Made this twenty-first day of April, 1931, between Sidney H. Kahn, Charles C. Irwin, Frederick W. Straus, N. H. Oglesbee, and J. C. Wright (hereinafter called the "Committee"), party of the first part, and such holders of The Sovereign 6% First Mortgage Gold Bonds, dated November 1, 1919, hereinafter more particularly described (hereinafter called the "bonds"), as shall become parties to this Agreement, as herein provided, parties of the second part, (hereinafter called the "Depositors");

Witnesseth:

That Whereas, Albert Hotel & Building Corporation, an Illinois corporation, executed and delivered its 6% First Mortgage Gold Bonds, dated November 1, 1919, in the aggregate principal amount of $1,000,000, and for the purpose of securing, among other things, the payment of the principal of and interest on said bonds said Albert Hotel & Building Corporation (which corporation, together with its successors to the title to the property conveyed by the Trust Deed herein described, are hereinafter sometimes referred to as "Corporation"), executed and delivered to Arthur W. Straus, of Chicago, Illinois, as Trustee, (which said Trustee and his successors in trust under the Trust Deed herein described are hereinafter sometimes referred to as "Trustee"), a certain Trust Deed, dated November 1, 1919, conveying and mortgaging to said Trustee, and to his successors in trust, a

certain property situated at the Northwest Corner of Kenmore and Granville Avenues, Chicago, Illinois, commonly known as "The Sovereign", which said Trust Deed and any and all instruments confirmatory thereof and/or supplemental thereto are hereinafter sometimes referred to collectively as "Mortgage", and all of the estate and property conveyed and mortgaged by said Mortgage, is hereinafter sometimes referred to as "Mortgaged Property";

And Whereas, the Corporation has made defaults in the due observance or performance of certain of the covenants and provisions in said Mortgage contained;

And Whereas, united action and co-operation on the part of the holders of the bonds of the Corporation is advisable and necessary in order that their rights and interests may be protected, and such united action and co-operation can best be procured by the means of a Committee, as in this Agreement provided;

And Whereas, the Committee has consented to represent and to act for the Depositors as hereinafter set forth;

Now Therefore, In consideration of the premises and of the mutual advantages that will arise therefrom, all Depositors, each for himself, but not for the others, or any of them, agree with each other and with the Committee and with the Depositary hereinafter appointed, as follows:

Article I.

Deposit of Bonds and Issuance of Certificates of Deposit and Appointing Depositary.

Section 1 appoints Straus National Bank and Trust Company in Chicago as Depositary and defines the active duties and powers of the Depositary. Contains the form of Certificate of Deposit, including provision that the depositors by depositing bonds and accepting certificates assent to the provisions of the Depositary Agreement, etc.

Article II.

Personnel and Duties of the Committee.

Enumerates powers of Committee to employ agents and counsel, a Secretary, etc.,—Committee shall keep a record of its proceedings and action—Committee shall be entitled to re-

imbursment for advances and expenses, etc.,—Committee entitled to hold deposited bonds on property which comes into its hands for expenses, including compensation of Depositary, its agents, and attorneys,—holders of certificate shall not be personally liable for such expenses, but Committee shall look solely to the security of the deposited bonds and all property subject the agreement for such expenses, liabilities, etc.,—Committee members may be depositors of bonds and entitled to the same rights and subject to the same liabilities as other depositors—Committee has the right to cooperate with or join other committees involving said property.

Article III.

Powers of the Committee.

Depositors to transfer and assign to Committee the full, legal, equitable, and beneficial title to deposited bonds for the purposes hereof, and agree that Committee is vested with every right, power, and authority, to enable it to perform purposes of the agreement, possessed by the respective owners or holders of said bonds deposited hereunder, including the power to institute or cause to be instituted proceedings at law, in equity, in bankruptcy, or otherwise, or to intervene therein in connection with the foreclosure of said mortgage or otherwise, or to procure payment of the deposited bonds, or to exercise, assert, and enforce, in its discretion, any powers vested in the owners of the bonds, and to do such acts as the Committee may deem judicious and proper in order to carry out the purposes of this agreement, although such powers be of a character not contemplated at the time of the execution hereof.

Article IV.

Plan of Reorganization or Readjustment.

Section 1. The Committee shall have power either before or after any sale of the Mortgaged Property or acquisition thereof by the Trustee or the Committee on foreclosure or otherwise to make, enter into, or become a party to (either alone or in conjunction with other bondholders, creditors, stockholders, or committees representing them, or otherwise) a plan or agreement of reorganization or readjustment of the

property and/or affairs of the Corporation containing such terms and conditions as the Committee may, in its sole discretion, deem proper or advisable, or the Committee may approve and adopt any such plan or agreement though not prepared by it. Such plan or agreement may constitute managers of the reorganization or readjustment under it and provide for their compensation and expenses, and the members of the Committee or any of them, may act as such managers or may be members of the Committee constituted by such plan.

Such plan or agreement of reorganization or readjustment may be effected (but need not be) by a merger or consolidation of the Corporation with any other corporation, corporations, trust or trusts, or may be effected by a sale and/or the transfer of the Mortgaged Property or other property of the Coporation to any person or persons, corporation or corporations, trust or trusts, or by an exchange of the deposited bonds and/or coupons for other bonds, securities and/or stocks.

Upon the approval and/or adoption of any such plan for reorganization or readjustment by the Committee a copy thereof shall be filed with the Depositary and with any Sub-Depositary, and thereupon a brief notice of the fact of such adoption and filing and a summary of such plan shall be prepared by the Secretary of the Committee, and shall be mailed in an envelope with postage prepaid to each of the Depositors, addressed to them at the addresses which they shall have given in writing to the Depositary, and the mailing of such notice shall be deemed to be and shall be sufficient and conclusive evidence of notice to the Depositors of the approval and adoption of any such plan or agreement by the Committee. Any Depositor may within thirty (30) days after the placing of such envelope in the United States mails in the City of Chicago, Illinois, or at such other place in the United States as said Secretary may select, file with the Depositary a notice, in writing, that such Depositor dissents from such plan or agreement, and may withdraw from deposit bonds and/or coupons in the aggregate principal amount represented by the Certificate held by him or anything then held by the Depositary and/or the Committee in lieu thereof, upon surrender of his Certificate properly endorsed in blank and upon payment of such amount as the Committee, in its absolute discretion, may fix as his proportion of the expenses of the Committee, including, among other things, attorneys'

fees, and upon payment of his pro rata share, as the Committee in its absolute discretion may prescribe, of any indebtedness, liabilities and obligations incurred by the Committee and/or of any advances which may have been made by or to the Committee, in which event the withdrawing Certificate holder shall receive such evidence of interest in such advances as the Committee, in its absolute discretion, may prescribe. The exercise of such right of withdrawal shall release and discharge the Committee and the Depositary and their officers, agents and attorneys from any and all liability at law or in equity, in tort or in contract, known or unknown, fixed or contingent, or of any nature or character whatsoever, as to each such withdrawing Depositor. Such plan or agreement shall be binding upon all Depositors who shall not have filed dissent and made such withdrawal within the period and in the manner above provided, their heirs, legal representatives, successors and assigns, all of whom shall be conclusively deemed to have assented thereto, whether they shall have received actual notice thereof or not, and shall be irrevocably bound and concluded by the same.

The Committee is hereby authorized and empowered (whether before or after the adoption or submission of any plan or agreement) to adopt, approve or accept any amendment to or modification of any plan or agreement so formulated, adopted, accepted or approved, or supplemental thereto, or to adopt, approve or accept a new plan or agreement in lieu thereof. Copies of such amendment, modification or supplement thereto or of any such new plan or agreement shall be filed, notice thereof shall be given and modifications therefrom may be effected, all upon the same terms and conditions, and with the same effect in these and all other respects, as herein provided with reference to the original plan or agreement; provided, however, that if in the opinion of the Committee, which shall be conclusive and binding upon the Depositors, such amendment, modification or supplement does not materially affect the rights of the Depositors hereunder, no notice of the adoption, approval or acceptance thereof shall be necessary, and upon the filing with the Depositary of copies of such modification, amendment or supplement and of the approval thereof by the Committee, the same shall become binding upon all the Depositors.

The Committee is hereby fully authorized and empowered in its sole and absolute discretion, at such times as it may deem expedient, to declare any such plan or agreement

or modified plan or agreement operative and to carry out any such plan or agreement or modified plan or modified agreement on the part of all the Depositors who shall not dissent in the manner hereinbefore indicated. Notwithstanding that the Committee has approved and adopted any plan and/or agreement or modified plan and/or agreement of reorganization or readjustment, and has submitted the same to the Depositors, and the said Depositors shall have been conclusively deemed to have assented thereto as herein provided, the Committee may, nevertheless, without submission to the Depositors of the question of abandonment of such plan and/or agreement, or modified plan and/or agreement, abandon such plan or agreement, or any modified plan or agreement, and terminate the same. In case the Committee shall finally abandon a plan or agreement or a modified plan or agreement which may have been adopted, and shall not desire the substitute any other plan or agreement therefor, the bonds and coupons deposited or held hereunder, or their proceeds, substitutes or avails then under the control of the Committee, shall be delivered to the several Depositors or their transferees in amounts representing their respective interests, upon surrender of their respective Certificates properly endorsed in blank, and the payment of such indebtedness, liabilities and obligations, if any, as shall have been paid or incurred by the Committee and/or of such advances as may have been made by or to the Committee, and the Committee shall have full and absolute power to determine and to apportion the share of such indebtedness, obligations and expenses to be borne by each Depositor.

Section 2. The title to any securities, property or moneys acquired and/or to be acquired by the Committee prior to and/or upon and/or subsequent to the consummation of a plan or agreement of reorganization or readjustment in accordance with the provisions of this Article IV, may, in the discretion of the Committee, be vested in a corporation to be organized by the Committee, or may be vested in a trustee or trustees (who may, but need not be, a member or members of the Committee); or the title to such securities, property or moneys may be held in such other manner as the Committee may determine. The Committee, in its discretion, may distribute stock, securities and/or certificates of beneficial interest of such corporation, trust and/or trustee or trustees to the Depositors pro rata to their several and respective bond and coupon holdings as evidenced by the Certificates

therefor; or the Committee may, in its discretion, hold the said securities, property or moneys and at such time or times as it may deem advisable sell or convert the said property or securities, or any part thereof, into money and distribute the proceeds thereof, and the moneys, if any, theretofore held, to the Depositors pro rata as aforesaid. Before any such distribution the expenses and obligations of the Committee shall be provided for. After any such distribution, the Committee shall thereupon be relieved from all liability hereunder. The accounts kept and the distribution made by the Committee shall be final as to calculation and amount.

As long as the Committee shall hold any property or securities the Committee may manage, control, vote upon or otherwise deal with the same in such manner as it may deem desirable and may enter into agreements providing for the voting of any stock held by the Committee, or may distribute voting trust certificates to the Depositors in lieu of any such stock.

Article V.

Meetings of Depositors.

Any matter or question not herein provided for or suggested by the Committee, or any amendment of the provisions of this agreement may, in the sole discretion of the Committee, be submitted to depositors at a meeting to be called in a designated manner, etc.

Article VI.

Records of the Committee.

The Committee shall keep books showing its receipts and disbursements, and a record of its proceedings, and upon the termination of its duties an account of its expenses and disbursements shall be filed with the Depositary, and thereupon the Committee, and each member thereof, shall be discharged from all its or his duties, liabilities or obligations as to all Depositors hereunder. The Committee shall not be required to make any report or accounting other than said final account.

Article VII.

Termination of Agreement.

The Committee may, at any time (whether before or after the adoption or submission of any plan or agreement), terminate this Agreement whenever it shall think best so to do, by giving notice of such termination to each of the Depositors, by letter, duly mailed, with postage prepaid, ten days before such termination, addressed to the last known post-office address of each Depositor, as shown by the books of the Depositary; and this Agreement shall be terminated whenever the termination thereof shall be requested in writing or writings filed with the Depositary by Depositors holding Certificates representing eighty per cent (80%) in principal amount of the bonds deposited hereunder, but only on such terms as shall satisfy all obligations of the Committee. The termination of this Agreement shall not affect any provisions, assents, acts, agreements or proceedings, whether of a legal nature or otherwise, that the Committee has made, done or instituted, prior to such termination. In event of such termination of this Agreement, the Depositors, upon the payment of the reasonable compensation, fees, costs, expenses, disbursements and outlays of the Committee and of the Depositary or any Sub-Depositary, and upon reimbursement and payment to the Committee and the Depositary for all indebtedness, obligations and liabilities incurred by the Committee and the Depositary, shall, upon the surrender to the Depositary of their Certificates endorsed in bank, be entitled to their pro rata share of all property, securities and cash held subject hereto, which, except as to money and property received from the sale of property subject to said Mortgage, shall be disposed of and distributed in the manner hereinbefore directed.

The Committee may as a condition precedent to any partial distribution require the presentation of Certificates for the notation thereon of such distribution.

Article VIII.

Liability of Committee and Depositary.

The Committee, and each member thereof, and the Depositary are made liable only for bad faith in the discharge of their duties, etc.

Article IX.

Removal and Resignation of Depositary.

The committee has power to remove the Depositary and appoint a successor, provided that the successor shall be a Trust Company or a State or National Bank of Chicago, etc.

Article X.

Chairman and Secretary of Committee Designated.

Article XI.

Miscellaneous.

Descriptive words, "mortgage", "bond or bonds," "trustee," and "Secretary", described. The term "corporation" shall be deemed to include any person, corporation, or trustee succeeding to the title to the mortgaged property, or any part thereof, or having any interest therein.

Article XI.

Section 6. The invalidity of any one or more phrases, clauses, sentences and/or paragraphs shall not affect the remaining portions of this Agreement, or any part thereof, all of the phrases, clauses, sentences and/or paragraphs of this Agreement being inserted conditionally on their being held valid in law, and in the event that any one or more of the phrases, clauses, sentences and/or paragraphs contained herein should be invalid, this Agreement shall be construed as if such invalid phrases, clauses, sentences and/or paragraphs had not been inserted.

Section 7. This Agreement shall be construed solely as an agreement among the parties hereto, and solely affecting and relating to the Committee, the Depositors, and the Depositary or Sub-Depositary, and neither the owners or holders of bonds and/or coupons not deposited or subjected to the operation of this Agreement in accordance with the provisions hereof, nor any other person, firm, or corporation, shall have any rights whatsoever hereunder. This Agreement shall bind and inure to the benefit of the several parties hereto and each of them, and each and all of the survivors, heirs, executors, administrators, successors, and assigns of said parties.

Article XII.

Execution of Agreement.

Section 1. The members of the Committee by their signatures to this agreement, signify their consent to accept and exercise such powers and authority (subject to the terms thereof) as may be conferred upon them by the terms and provisions of this Agreement. This Agreement may be executed by the members of the Committee in one or more counterparts, and all of such counterparts shall constitute the original Agreement. This Agreement shall take effect and be operative upon the Depositors hereunder, irrespective of the number of bonds and/or coupons that may be deposited hereunder.

Upon this Agreement being signed by any three members of the Committee in person or by duly authorized attorneys-in-fact, the Committee shall be deemed to be constituted and this Agreement shall become effective as to the members so signing.

In Witness Whereof the members of the Committee, as party of the first part, have hereunto set their hands and seals, and the Depositors, as parties of the second part, evidence their assent hereto by their respective deposits hereunder of said bonds and/or coupons in the manner hereinbefore provided, all as of the day and year first above written.

.....(Seal)
.....(Seal)
.....(Seal)
.....(Seal)
.....(Seal)

Committee.

To evidence its acceptance of the duties of the Depositary hereunder, Straus National Bank and Trust Company of Chicago has caused this Agreement to be signed in its corporate name by one of its Vice-Presidents, and its corporate seal to be hereto affixed by one of its Assistant Trust Officers.

STRAUS NATIONAL BANK AND TRUST COMPANY OF CHICAGO,

By .....,

Vice-President.

Attest:

.....,

Assistant Trust Officer.

17 EXHIBIT "F".

(Letterhead of The Sovereign and Sovereign Annex, Chicago, Illinois.)

NOTICE OF PLAN OF REORGANIZATION.

To holders of the 6% First Mortgage Gold Bonds of Albert Hotel & Building Corporation, Dated November 1, 1919, and the 6½% First Mortgage Gold Bonds of Sovereign Hotel Corporation, Dated August 1, 1922, and/or Certificates of Deposit Issued Therefor:

The Sovereign First Mortgage Bondholders' Committee, pursuant to the provisions of the Deposit Agreement dated April 21, 1931, and the Sovereign Annex First Mortgage Bondholders' Committee pursuant to the provisions of the Deposit Agreement dated January 23, 1931, have formulated and adopted a Plan for the joint reorganization of the financial structures of The Sovereign and the Sovereign Annex on behalf of the holders of bonds of the above described issues.

The 6% First Mortgage Gold Bonds of Albert Hotel & Building Corporation (known as The Sovereign bonds) were issued under a Trust Deed and Chattel Mortgage dated November 1, 1919, securing an issue of bonds in the original aggregate principal amount of $1,000,000, of which $575,000 are outstanding, unsubordinated and unpaid. The 6½% First Mortgage Gold Bonds of Sovereign Hotel Corporation (known as the Sovereign Annex bonds) were issued under a Trust Deed and Chattel Mortgage dated August 1, 1922, securing an issue of bonds in the original aggregate principal amount of $1,000,000, of which $798,000 are outstanding, unsubordinated and unpaid.

Description of Property.

The Sovereign and the Sovereign Annex, although originally financed independently of each other, were designed to be and have always been operated as a single unit, the Annex being an integral part of the original building. The property consists of two immediately adjacent fireproof apartment hotel structures, The Sovereign portion containing 126 suites of one, two and three rooms each and the Sovereign Annex portion containing 198 furnished hotel

rooms, each with bath. The properties together form a high-class residential project. Among the facilities afforded by the property is a swimming pool.

The land upon which the buildings are located fronts approximately 135½ feet on Kenmore Avenue with a depth of 150 feet on Granville Avenue, Chicago, Illinois. The property is in good physical condition, although the furnishings and equipment are in need of some rehabilitation, and it is possible that it may become advisable to install additional kitchenette equipment in certain of the apartments. This location is regarded as desirable for the purposes for which the building is being used.

Financial Position of Property.

Funds were not deposited to meet the payments on the bonds of the Sovereign Annex issue, whereupon the Sovereign Annex Committee was formed and all known holders of the Sovereign Annex first mortgage bonds were requested to authorize the Committee to represent them in the development of a joint reorganization of the financial structures of the two properties. Funds were not deposited to meet the semi-annual interest due May 1, 1931 on the bonds of The Sovereign issue, whereupon the Sovereign Committee was formed and all known holders of The Sovereign first mortgage bonds were requested to authorize the Committee to proceed in steps toward reorganization on their behalf, by depositing their bonds. At the present time, 93% in principal amount of The Sovereign bonds have been deposited and 95% in principal amount of the Sovereign Annex bonds have been deposited. In addition to the lien of the unsubordinated first mortgage bonds which are outstanding, the property is also subject to the lien of advances totaling approximately $396,900.00 previously made by S. W. Straus & Co. and by an affiliated company, to maintain payments to the bondholders of bonds and coupons, for which funds were not supplied by the property. $16,560.00, included in the foregoing amounts, are unsubordinated advances made by S. W. Straus & Co. on account of the semi-annual interest due February 1, 1931, on the Sovereign Annex issue and held on a parity with the first mortgage bonds, in accordance with a letter to the bondholders dated January 24, 1931, announcing the formation of the Committee for that issue. In addition, S. W. Straus & Co. and its affiliated company had pre-

viously acquired title to the property on account of the subordinated advances above mentioned.

Possession of the buildings was voluntarily surrendered to the Trustees under the respective Trust Deeds, as a result of which, the income from the property since the date of such possession has been applied or is being held for the benefit of the respective first mortgage bondholders, and that portion of these funds which is available to the Committees will be applied on behalf of the depositing bondholders in the manner hereinafter described.

The balance of the 1929 and 1930 taxes, after payments totaling $5,417.60, and the taxes for the first half of 1931, inclusive of penalties, total approximately $65,500. Taxes for the second half of 1931 will amount to approximately $15,500 and the 1932 taxes, which have not yet been billed, are estimated at approximately $28,750.

General Situation.

According to a report of the operation of the property, as prepared by Horwath & Horwath, Accountants and Auditors, for the five months ended May 31, 1933 (a summary of which is attached hereto and marked Exhibit "A", which exhibit also includes earnings figures for the calendar years 1931 and 1932), on the basis of accrued income less expense the property had an operating profit of $13,576.05 before provision for current taxes for the period, estimated at $8,541.65, which would leave a surplus available for financing charges, including interest requirements, of $5,034.40. The property had an average occupancy of 68.4% during May, 1933, and an average occupancy for the five months ended May 31, 1933, of 67.1%.

It is apparent from the operating figures that the earnings of the buildings are far short of meeting the interest and principal requirements fixed under the bond issues. It is also obvious that the establishment of any fixed requirements or the placing of a funded indebtedness in a substantial amount against the property at this time would be hazardous. Nevertheless, the security for the issues is a high-grade property enjoying a fair location and one which should improve in earnings and value with the renewal of real estate activity. It has been apparent, of course, that the properties since they are operated as a unit, must of necessity be reorganized simultaneously under a single financial structure, thereby

saving considerable expense attendant to the readjustment. The Committees have carefully considered all these factors in formulating the program of readjustment, with the result that the following Plan of Reorganization has been adopted by both Committees with the object of enabling the depositing bondholders of both The Sovereign and the Sovereign Annex issues to obtain the benefits of any improvement in earnings and value which the property may experience.

18 By reason of the defaults under the first mortgage trust deed, the Trustee under the Sovereign Annex issue declared the principal and interest of all bonds of this issue to be due and payable and filed a bill to foreclose the first mortgage on April 16, 1931. By reason of the defaults under the Trust Deed securing the bonds of The Sovereign issue, the Trustee under that issue declared the interest and principal of all such bonds to be due and payable and on May 27, 1931, filed a bill to foreclose the first mortgage. Decrees of foreclosure have been entered by the Court in both instances and dates will soon be fixed in accordance with the law for the sales of the mortgaged buildings, at which sales the buildings will be sold to the highest bidder.

Under prevailing economic conditions, it is probable that at the forthcoming foreclosure sales no bid reflecting what the Committees believe to be fair values for the mortgaged properties will be made by outsiders; and, accordingly, the Committees, with the object of protecting the interests of the depositing bondholders and in order to prevent the purchase of the properties at inadequate prices, will probably bid in both mortgaged properties for the benefit of the parties to the joint reorganization of the bond issues. Accordingly, the Following Plan of Reorganization provides that practically the Entire Ownership of the Property Constituting the Security for the Issues Will Go Jointly to the Depositing Bondholders Provided the Property Is Acquired by the Committees or Their Nominees at the Forthcoming Foreclosure Sales. The Committees reserve full discretion to determine the price to bid for the property at the respective foreclosure sales and also to refrain from purchasing same if an offer, which the Committees regard as satisfactory, is made by any other bidders.

Details of Plan of Reorganization.

The following is a summary of the Plan of Reorganization which has been formulated, adopted and approved:

New Company.

A new corporation (hereinafter referred to as the "New Company") organized under the laws of the State of Illinois and having an authorized capital stock consisting of such number of shares of Capital Stock with or without par value as shall be determined by the Committees shall hold title to both property, if and when both properties are acquired at the above mentioned foreclosure sales.

The capitalization of the New Company will consist solely of this issue of Capital Stock, which will be fully paid and non-assessable, and 90% of which will be issued for the benefit of the depositing Sovereign and Sovereign Annex first mortgage bondholders in the manner hereinafter described.

Depositing Bondholders to Receive Benefit of 90% of Ownership of Property.

Capital Stock of the New Company will be issued for the benefit of the depositing Sovereign first mortgage bondholders at the rate of one and one-quarter (1¼) shares of Capital Stock for each One Hundred Dollars ($100) in face amount of bonds deposited; and Capital Stock of the New Company will be issued for the benefit of the depositing Sovereign Annex first mortgage bondholders at the rate of one (1) share of Capital Stock for each One Hundred Dollars ($100) in face amount of bonds deposited. The Capital Stock of the New Company thus issued for the benefit of the depositing Sovereign and Sovereign Annex bondholders will amount to ninety per cent (90%) of the total Capital Stock issued. The remaining ten per cent (10%) of the Capital Stock of the New Company will be issued for the benefit of the Receiver for S. W. Straus & Co. and to said affiliated company in satisfaction of various advances made by them, both subordinated and unsubordinated, aggregating approximately $396,900.00, and for making title to the properties available under this Plan, thereby substantially shortening the time required to effect the reorganization. All shares of the Capital Stock

will be deposited under a trust agreement and Trust Certificates issued therefor as hereinafter set forth.

Before determining the division of the Trust Certificates between The Sovereign and the Sovereign Annex bondholders respectively, the Committees considered the relative size of the outstanding bond issues, the location and size of the properties, the dependence of the properties one upon the other, their respective earning capacities, in addition to other matters deserving of consideration. The Committees are of the opinion that the division between the two classes of bondholders is a reasonable one and that the joining of the two properties in one capital structure will be for the permanent benefit of all the bondholders.

Trust Agreement.

It is of vital importance that after the bondholders become the owners of the property, they be properly organized and in position to benefit from unity of control and centralized supervision of the operations of the property and its financial policies. In order to establish this necessary central point of authority, all of the shares of the Capital Stock of the New Company will be deposited under a Trust Agreement and Trust Certificates issued therefor.

The Trust will endure for a period of ten years, but will be subject to termination prior to the expiration of this period by the action of a majority of the Trustees or by the holders of sixty-six and two-thirds per cent (66-2/3%) in amount of the outstanding Trust Certificates for Capital Stock. There will be three Trustees who will serve on behalf of the holders of the Trust Certificates, and Messrs. George W. Rossetter, Jay C. McCord and Sidney H. Kahn will serve in this capacity. The reasonable expenses and fees of the Trustees and of the Depositary and Agent for the Trustees will be paid by the New Company and will be regarded as operating expenses thereof.

In the event that during the period of the Trust a reasonable offer should be received for the sale of the property, the terms of any such sale will be submitted to the holders of the Trust Certificates by the Trustees. In the event that the holders of one-third or more in principal amount of the then outstanding Trust Certificates dissent in writing from any such proposal, the proposal for the sale of the property on the terms submitted will not be consummated.

New Securities.

When the Reorganization becomes operative and the New Securities Are Prepared, All Holders of Certificates of Deposit Will Be Advised by the Committee.*

The holder of a Certificate of Deposit representing a deposited $1,000 Sovereign First Mortgage Bond will be entitled to a Trust Certificate for Twelve and One-half (12½%) shares of the Capital Stock of the New Company; the holder of a Certificate of Deposit representing a deposited $500 Sovereign First Mortgage Bond will be entitled to a Trust Certificate for Six and One-quarter (6¼) shares of the Capital Stock of the New Company, and the holder of a Certificate of Deposit representing a deposited $100 Sovereign First Mortgage Bond will be entitled to a Trust Certificate for One and One-quarter (1¼) shares of the Capital Stock of the New Company.

The holder of a Certificate of Deposit representing a deposited $1,000 Sovereign Annex First Mortgage Bond will be entitled to a Trust Certificate for Ten (10) shares of the Capital Stock of the New Company; the holder of a Certificate of Deposit representing a deposited $500 Sovereign Annex First Mortgage Bond will be entitled to a Trust Certificate for Five (5) shares of the Capital Stock of the New Company, and the holder of a Certificate of Deposit representing a deposited $100 Sovereign Annex First Mortgage Bond will be entitled to a Trust Certificate for One (1) share of the Capital Stock of the New Company.

Possible Future Financing.

It appears that the funds arising from the operation of the property accumulated in the hands of the Trustees and apportionable to the deposited bonds will not be sufficient to pay taxes and all expenses of foreclosure and reorganization. Accordingly, it may be advisable in order to discharge all such items properly, if the earnings of the property im-
19 prove, to place a first mortgage on the property and utilize the proceeds of such a loan for application against taxes and the unpaid portion of the expenses of foreclosure

* Persons who now hold Certificates of Deposit for either The Sovereign or the Sovereign Annex bonds need not take any action at this time if they assent to the Plan, but should continue to hold their Certificates until receipt of further advice from the Committees.

and reorganization. By this means, the early earnings of the property would become available for distribution on the new securities to be issued to the depositing bondholders without the necessity of waiting until such time as the earnings of the property will have been sufficient to pay these items. It should be borne in mind that the taxes and the unpaid expenses of foreclosure and reorganization constitute prior liens on the property regardless of whether or not any first mortgage loan is obtained; and, therefore, the placing of a first mortgage loan on the property, as contemplated, will not alter the relative position of the depositing bondholders and has the desirable feature of enabling the New Company properly to fund its indebtedness. The amount of any first mortgage loan which would be placed against the property would be relatively small and consistent with the earnings of the property.*

In the event that the New Company is unable to arrange a loan for the purposes of paying taxes and the expenses of foreclosure and reorganization, the first income of the New Company and the property will be applied against any such unpaid items before any funds will be made available for distribution on the Trust Certificates to be issued.

Management.

During the period of the Trust, the management and operation of the property will be under the supervision of Directors elected by the Trustees and reports concerning operations and activities will be made to the holders of the Trust Certificates periodically.

Reorganization Expenses.

The share of depositing bondholders in the net proceeds derived from the operations of the property by the Trustees (which at the present time amounts to about $11,500.00) and the net proceeds of any first mortgage loan, if obtained, will be used to defray cash payments required to be made on account of the expenses of foreclosing the bond issues, past due and accrued taxes and expenses of reorganization; and

* No commitment for such a loan has been received; however, it is expected that the New Company may be able to obtain such a loan when and if the plan becomes operative and the property has been acquired by it. No loan will be applied for until the earnings improve sufficiently to warrant one.

arrangements have been made for the payment of any of the remaining unpaid expenses of foreclosure and reorganization by the New Company out of its first earnings. Moneys from the sources above described in addition to such amounts as will accumulate prior to the consummation of the reorganization applicable to the deposited bonds and such other funds as may become available to the Committees, and/or such portion of the net earnings of the New Company as may be required, will be distributed as follows: (a) Cash payments required to be made by the Committees in part payment of the foreclosure sale price of the issues; (b) Unpaid and accrued (not billed) taxes; (c) Cost of postage, telegrams, stationery, printing and all other expenses incurred by the Committees or their representatives, in addition to an amount equal to 1½% of the face amount of bonds deposited which the Committees have agreed to accept to meet the general expenses and compensation for the Committees; (d) Costs of the issuance of the new securities, including printing, engraving, title examination charges, qualification costs, stamp taxes, recording costs, cost of registration, etc.; (e) Charges of the Depositary for the Committees at the rate of ¾ of 1% of the face amount of bonds deposited, plus the out-of-pocket expenses of the Depositary; (f) Attorneys' fees, Trustees' fees and other court costs in connection with the foreclosure proceedings. The fees for the attorneys for the Trustees in the foreclosure proceedings of both issues as allowed by the Court at the time the decrees were entered, aggregated $44,250.00. At the request of the Committees, however, the attorneys have consented to reduce the fees to $20,000.00, of which $16,000.000 remain unpaid. The Trustees' fees amount to $3,500.00 in the case of The Sovereign and to $4,000.00 in the case of the Sovereign Annex, and compensation for counsel for the Committees has been fixed at $7,000.00.

Amendments to Deposit Agreements.

In order that the bondholders might gain the benefits of representation by independent business executives who had no connection with the underwriting house, it was deemed advisable to effect substitutions in the membership of these Committees. The personnel of the Committees is identical and consists of: Mr. George W. Rossetter, President Geo. W. Rossetter & Co., Certified Public Accountants, Chicago, Illinois, Chairman; Mr. Jay C. McCord, President J. C. Mc-

Cord & Company, real estate, Chicago, Illinois, in addition to Mr. Sidney H. Kahn, a former executive of the underwriting house.

The Committees found that by reason of the substitutions in the membership and the time which has been and will be required in the reorganization, they could not continue to function on the basis contemplated at the time of their formation, and, therefore, it has been necessary to amend the respective Deposit Agreements to meet this exigency. Accordingly, the Committees, pursuant to Section 3 of Article II of the Deposit Agreements, passed resolutions amending paragraph one (1) of Section 4 of Article II of the Deposit Agreements and deleting Section 9 of Article VIII of the Sovereign Annex Deposit Agreement to provide that the members of the Committees, in addition to receiving all expenses, should receive reasonable compensation for the services rendered by them.

Depositing Bondholders.

Under the Terms of the Deposit Agreements Dated January 23, 1931, and April 21, 1931, Respectively, Depositors who Assent to the Plan of Reorganization and the Amendments to the Deposit Agreements Need Take No Action, But Should Continue to Hold Their Certificates of Deposit and Not Forward Until Advised So to Do by the Committees. Any depositor of a Sovereign or Sovereign Annex bond who dissents from the Plan of Reorganization or the amendments to the Deposit Agreements must, within thirty (30) days after the date of the mailing of this notice of adoption and filing of the Plan of Reorganization and the summary thereof, send to American National Bank And Trust Company Of Chicago (formerly known as Straus National Bank And Trust Company Of Chicago):

(1) A written notice of dissent;

(2) A remittance to the Committees for their expenses;

(3) Certificate of deposit duly endorsed, with a bank guarantee of indorsement satisfactory to the Depositary.

Unless such action is taken, it will be conclusively presumed that you have approved, adopted and assented to the Plan of Reorganization and the Amendments to the Deposit Agreements. Any depositor who dissents from the Plan of Reorganization or the Amendments to the Deposit Agreements has the right to withdraw his or her bonds heretofore

deposited, upon the payment to the Committees of three per cent (3%) of the face amount of bonds deposited, which is in accordance with the terms and conditions provided in Section one (1) of Article IV of the Deposit Agreements. However, such withdrawals will not be permitted unless the conditions above set forth are complied with within thirty (30) days after the mailing of this notice. The above mentioned payment covers the depositors' proportionate share of the Committees' expenses to date and will amount to Three Dollars for a Hundred Dollar ($100.00) par value bond; Fifteen Dollars for a Five Hundred Dollar ($500.00) par value bond; and Thirty Dollars for a One Thousand Dollar ($1,000.00) par value bond.

Non-Assenting Bondholders.

Non-Assenting Bondholders Will Be Entitled Only to Their Proportionate Share of the Foreclosure Price of the Property on Which They Hold a Bond and Accrued Income, Minus Their Proportionate Share of the Expenses for Foreclosing Such Issue. In the opinion of the Committees, the amounts to be received by the nonassenting bondholders will be less than the value of the securities to be received by the depositors.

Bonds Not Yet Deposited.

Holders of the Sovereign or the Sovereign Annex First Mortgage Bonds Who Have Not Deposited Same with the Depositary of the Committees May Do So Until the Close of Business on August 12, 1933, and by Doing So May Share in the Benefits of the Plan of Reorganization as Depositors. All persons who deposit their bonds on or after July 14, 1933, will be deemed to have assented to and approved the Plan of Reorganization and Amendments to the respective Deposit Agreements and will not be entitled to the rights of withdrawal upon the terms and conditions hereinabove set forth. The Committee Has Established August 12, 1933, as the Final Date for Deposit of Bonds.

Bondholders who have disposed of their bonds are requested to write to the Secretary of the Committees, giving the name and address of the party to whom the bonds were transferred so that a copy of this communication may be sent to the present holder.

General.

The above statements are based upon reports and other information received by the Committees and are believed to be correct. Said statements and figures are not intended and shall not be construed as representations or warranties, and are not guaranteed by the Committees.

The Plan of Reorganization and the Amendments to the Deposit Agreements have been adopted by the respective Committees and copies thereof filed with the Depositary. Notice of the adoption and filing of this Plan of Reorganization and the Amendments to the respective Deposit Agreements is given pursuant to the provisions of the Deposit Agreements dated January 23, 1931, and April 21, 1931, respectively, and with the effect therein provided.

Summary.

In the opinion of the Committees, the Plan of Reorganization should result in the following advantages to the depositing bondholders:

1. The depositing bondholders will become the owners of Trust Certificates representing 90% of all of the outstanding stock of the New Company which will own the entire property mortgaged under both bond issues;
2. As owners, the amounts of future distributions to be received by the depositing first mortgage bondholders will be limited only by the actual earnings of the property;
3. The depositing first mortgage bondholders will be in position to receive the benefits which should accrue to the owners of a well located property enjoying prospects of an improvement in earnings when there is an upturn in general business conditions;
4. The Plan will result in a consolidation into a single financial structure of the two buildings, which of necessity have been and must be operated as a single unit; and the financial structure of the New Company owning the buildings will be highly flexible, enabling depositing bondholders to take such action in the future as may become advisable;
5. By means of a Trust, provision is made for the centralized supervision of the operation and management of the property for the depositing bondholders.

It is hoped that by speedily effecting the Plan of Reorganization summarized herein, provision can be made thereby for the discharge of the delinquent taxes on the property through arranging financing after the Plan has become operative and earnings improve, and that thereby a receivership of the property on account of tax delinquencies may be averted.

The Committees recommend that bondholders who have not as yet deposited their bonds of these issues avail themselves of this opportunity to obtain the benefits of the reorganization by immediately depositing and thereby entitling themselves to receive their portion of the ownership of the property, as provided in the Plan.

Very truly yours,
GEORGE W. ROSSETTER, *Chairman*
JAY C. MCCORD
SIDNEY H. KAHN
The Committees

Dated, Chicago, Illinois, July 13, 1933.

EXHIBIT "A"

The Sovereign and the Sovereign Annex (Chicago, Illinois)

Statements of Income and Expense, computed on an accrual basis, for the Year Ended December 31, 1931; for the Year Ended December 31, 1932; and for the Five Months Ended May 31, 1933.

(These statements, with the exception of taxes and interest requirements, have been taken from reports of the Trustees' operations prepared by Arthur Young & Company, Accountants and Auditors, W. J. Forster & Company, Accountants and Auditors, and Horwath & Horwath, Accountants and Auditors, for the respective periods. The Committees believe the statements to be substantially correct; however, they make no representations in respect thereto and do not in any manner guarantee the accuracy thereof.)

Income.

	Year Ended 12/31/31	Year Ended 12/31/32	Five Months Ended 5/31/33
Rents, Minor Operated Departments, Etc.	$267,407.79	$206,782.58	$ 79,909.43
Operating and Unapportioned Expenses			
Administration and General	$ 36,037.02	$ 30,453.31	$ 11,523.61
Advertising and Promotion	11,847.23	16,149.66	6,246.01
Engine Room (Heat, Light and Power)	47,083.06	43,425.57	17,182.00
Maintenance	23,153.42	30,884.11	8,846.85
Rooms	63,946.08	54,548.33	19,827.14
Reserve for Bad Debts	3,000.00		1,250.00
Insurance	3,014.02	6,532.98	1,457.77
Total Expenses	$188,080.83	$181,993.96	$ 66,333.38
Operating Profit	$ 79,326.96	$ 24,788.62	$ 13,576.05
Real Estate Taxes for the Period (1932 and five months of 1933 estimated	$ 31,386.52	$ 28,750.00	$ 8,541.65
Surplus Before Present First Mortgage Interest Requirements	$ 47,940.44	$ 3,961.38D	$ 5,034.40
Interest and 2% Normal Tax (on the present outstanding bond issue)	$ 88,097.40	$ 88,097.40	$ 36,707.25
Deficit (on basis of interest requirements under old issue without giving effect to the attached Plan)	$ 40,156.96D	$ 92,058.78D	$ 30,672.85D

D—Deficit

Feb. 13, 5. 42 And on, to wit, the 13th day of February, 1935 came the Debtor by its attorneys and filed in the Clerk's office of said Court a certain Answer in words and figures following, to wit:

43 IN THE DISTRICT COURT OF THE UNITED STATES.

* * (Caption—58701) * *

ANSWER OF KENMORE-GRANVILLE HOTEL COMPANY, A CORPORATION, TO THE PETITION OF J. GOLD, R. SANDROFF AND S. ISENBERG.

Now comes Kenmore-Granville Hotel Company, a corporation, the above named debtor, and for answer to the petition of J. Gold, R. Sandroff and S. Isenberg filed herein pursuant to the provisions of Section 77-B of the Act of Congress entitled "An Act to Establish a Uniform System of Bankruptcy Throughout the United States", approved July 1, 1888 and Acts amendatory thereof and supplementary thereto, states:

(1) The debtor admits the allegations contained in paragraphs numbered 1 to 12, both numbers inclusive, and paragraphs 15 to 17, both inclusive.

(2) The debtor admits that a joint plan of reorganization of the financial structure of this debtor's property has been formulated and adopted by the Bondholders' Committees, described in paragraph 12 of said petition, and that Exhibit "F" attached to said petition is a copy of the notice and

44 summary of said plan which was sent to the owners of first mortgage bonds secured by the property of this debtor on or about July 13, 1933.

(3) The debtor admits that said plan of reorganization must be modified and amended in order to conform to the provisions of Section 77-B of the Bankruptcy Act, as amended, but this debtor neither admits nor denies that the suggested modifications and amendments contained in paragraph 18 of said petition will be acceptable to the creditors of this debtor and this debtor reserves the right to propose suggested amendments and modifications to said plan looking toward the fairest and most equitable determination of the rights of every class of creditors and the stockholders of this debtor.

(4) This debtor neither admits nor denies that Exhibits "A" and "B" attached to said petition and incorporated in paragraph 14 constitute an accurate and complete reflection of its financial condition, but admits that Thomas D. Nash,

County Treasurer and Ex-Officio County Collector of Cook County, Illinois, was, on to-wit, August 14, 1934, appointed tax receiver for the property of this debtor in a proceedings then pending in the Circuit Court of Cook County, Illinois and known and docketed therein as case No. 34-C-13891; that the debtor is informed and believes that Robert M. Sweitzer, as the presently elected and constituted County Treasurer and Ex-Officio County Collector of Cook County, Illinois, has been substituted as such tax receiver for Thomas D. Nash, whose term of office has heretofore exp[illegible]ed.

(5) The debtor desires that a reorganization of this
45 corporation be effected under the provisions of Section 77-B of the Bankruptcy Act and desires to have the joint plan of reorganization, heretofore formulated and adopted by said Bondholders' Committees, or such amendments and modifications thereof as may be accepted to all parties in interest, submitted to this Honorable Court at an early date in order that any such plan so proposed may be consummated herein under the powers and authority conferred upon this court by Section 77-B of the Bankruptcy Act, as amended, within an early date.

KENMORE-GRANVILLE HOTEL COMPANY,
By EDWARD R. HEINSIMER,
Its President.

(Corporate Seal)
MAX FREDERICK GOLDBERG,
Attorney for Debtor.

State of Illinois, } ss.
County of Illinois. }

EDWARD R. HEINSIMER, being first duly sworn, on oath deposes and says that he is the President of the Kenmore-Granville Hotel Company, a corporation, debtor herein, and that he is the duly authorized agent of the debtor and was duly authorized on its behalf to execute the above and foregoing answer; that he has read the said answer, knows the contents thereof and that the statements contained therein are true and correct according to his best knowledge, information and belief.

EDWARD R. HEINSIMER.

Subscribed and sworn to before me, a Notary Public, this 13th day of February, 1935.

FREDERICK J. MANN,
Notary Public.

(Seal)

My Commission expires March 13, 1938.

13. 46 And afterwards, to wit, on the 13th day of February, 1935, being one of the days of the regular February term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable John P. Barnes, District Judge, appears the following entry, to wit:

47 IN THE DISTRICT COURT OF THE UNITED STATES.

* * (Caption—58701) * *

ORDER.

This cause coming on to be heard on the motion of Tarnopol, Flamm & Sideman, attorneys for the petitioning creditors of the above named debtor, and upon the petition of said petitioning creditors, heretofore filed herein, and upon the answer of the debtor herein, due notice having been given, and debtor appearing by counsel; and the said motion and petition and the statements of the respective counsel having been considered by the Court, and the Court being satisfied that said petition complies with Section 77-(b), Chapter VIII of the Act of Congress of July 1, 1898, entitled "An act to establish a uniform system of bankruptcy throughout the United States" as amended, and has been filed in good faith,

It Is, Therefore, by the Court, Ordered:

1. That said creditors' petition be and it hereby is approved as properly filed under Section 77-(b) of said bankruptcy act as amended.

2. That until the further order of this Court, all creditors of Kenmore-Granville Hotel Company, the debtor herein, and their agents and attorneys, or either or any of them, be and they each hereby are restrained and enjoined from commencing or prosecuting any action or proceeding, at law or in equity, against the said debtor for the purpose of enforcing any lien or claim on the property of the debtor, or any part thereof, or interfering with, attaching, levying upon, or in any manner whatever disturbing the operation of the property of the debtor, or from taking possession of or in any manner interfering with the same, or any part thereof.

3. That Thomas D. Nash, County Treasurer, and ex officio County Collector, of Cook County, heretofore appointed as Receiver of the property of the debtor in a proceeding in the Circuit Court of Cook County, Illinois, docketed therein as Case No. 34-C-13891, is hereby authorized to continue in possession until the further order of this Court.

48 4. That a hearing be, and the same hereby is set before the Court for the 13th day of March, A. D. 1935, at 10:00 o'clock in the forenoon, at which hearing, or any adjournment thereof, the Court will determine whether or not it shall appoint a Trustee or Trustees or restore the debtor to possession.

5. That George W. Rossetter, Jay C. McCord, and Sidney H. Kahn, constituting the Sovereign Annex First Mortgage Bondholders' Committee and the Sovereign First Mortgage Bondholders' Committee, be, and they hereby are given leave to intervene herein and to file their intervening petition within ten days, and all parties herein are hereby ordered to answer said intervening petition within ten days thereafter.

6. That said George W. Rossetter, Jay C. McCord and Sidney H. Kahn, constituting the Bondholders' Committees on said properties as aforesaid, notify all creditors and stockholders, whose names and addresses are known to them, by mail of said hearing at least ten days before the date thereof, and cause a notice of said hearing to be published once a week for two successive weeks in a newspaper of general circulation published in Chicago, Illinois.

7. The Court retains jurisdiction for the purpose of maintaining or supplementing this order as may be required from time to time.

Enter:

BARNES,
Judge.

Feb. 13, 1935.

49 And on, to wit, the 25th day of February, 1935, came the Petitioner by her attorneys and filed in the Clerk's office of said Court a certain Petition in words and figures following, to wit: Filed Feb. 1935.

50 IN THE DISTRICT COURT OF THE UNITED STATES.

* * (Caption—58701) * *

PETITION OF NETTIE MEYER.

Petitioner, Nettie Meyer, respectfully shows:

I. That heretofore the certain alleged creditors of the debtor filed their petition in this cause for reorganization

under Section 77b, as it more fully appears from the petition now on file.

II. That prior to the approval of the petition, this petitioner had exhibited her complaint in the Superior Court of Cook County, charging therein, among other things, that the Kenmore Granville Hotel Corporation was not a bona fide corporation, but was a mere "dummy", and organized for the purpose of defrauding the bond owners, and it also sought to hold the trustees and the alleged Bondholder's Committee liable for fraud, and sought an accounting, receiver and injunction, as it more fully appears from the complaint filed in the Superior Court of Cook County in the case entitled "Nettie Meyer vs. Kenmore Granville Hotel Corporation, et al, case number 35 S 2153, a copy of the bill of complaint, exclusive of certain exhibits attached thereto, is in words as follows, to-wit:

51 State of Illinois, } ss:
County of Cook. }

IN THE SUPERIOR COURT OF COOK COUNTY.

In Chancery.

Nettie Meyer, *Plaintiff,*
vs.
Kenmore Granville Hotel Corporation, *et al,* *Defendants.*
} No. 35 S 2153.

COMPLAINT.

Nettie Meyer, plaintiff, complains of the defendants, Sovereign Hotel Corporation, Kenmore Granville Hotel Corporation, American National Bank and Trust Company of Chicago, Wholesale Merchandisers, Inc., Sidney H. Kahn, Melvin L. Straus, Arthur W. Straus, Samuel J. T. Straus, M. A. Rosenthal, Frederick W. Straus, William R. Heinsimer, Edward R. Heinsimer, Charles J. Beck, Nathan H. Oglesbee, Joseph D. Blosser, Mabel Strickrod and Robert M. Sweitzer, as County Treasurer, and says:

(1) That prior to November 1, 1919, and thereafter S. W. Straus & Co., a corporation, had organized a co-partnership

under the name of S. W. Straus & Company for the pupose of aiding it in underwriting bond issues and selling them to the public, and designated Samuel J. T, Straus and Sidney H. Kahn, two of its officers, as the members of the co-partnership; that the corporation and the co-partnership, its instrumentality, were engaged in the business of procuring and selling real estate first mortgage bond issues on properties which were under construction in the various States in this County. For the purpose of deriving large gains and profits and to deceive the general public and to confuse them by manipulation hereafter states, they caused to be organized a holding company under the name of S. W. Straus & Co., a Delaware corpo-
52 ration, and subsidiary companies under the name of S. W. Straus & Co., an Illinois corporation, and similar corporations under the same names in the states of New York, Massachusetts, Maryland, California and Pennsylvania, all working in the interest of the company; that the said company and the Illinois corporation, hereafter referred to as "Corporation" were doing business in this state in making loans secured by bond issues on buildings under construction for the purpose of procuring for themselves and for their individual interests and the interest of the officers and directors large profits deducted from the loans made by them in the form of commissions, financing and by acquiring such mortgage loans to be deposited in a bank wherein they were financially interested, and to procure insurance from companies which paid them commissions and by requiring that the buildings be erected by building contractors selected by them and wherein they were financially interested.

(2) In connection with their scheme to enrich themselves at the expense of the bond investors they maintained (1) a sales department, (2) a loan department, and (3) a trust department.

The loan department would solicit owners of vacant land to organize corporations for the purpose of improving the vacant land and to apply for a loan underwritten by the Company at a commission of approximately ten per cent (10%) or larger, and thereafter the Company would sell the bond issue to the Corporation at a discount and such Corporation would sell the bonds to the public at par and the sale from the Company to the Corporation was merely by bookkeeping entries, as
53 no money passed between them. Thereafter the sales department would send out agents and salesmen and employees throughout the United States, soliciting the purchase

of such bonds by advertisements, orally and in writing, and they would represent to the bond purchasers that the Company was engaged in the business conservatively investing the money of its investors in property which was greatly in excess of the bonded indebtedness, and in many instances they would state in the circulars "We regard our interests as identical with the interests of our clients; we represent the investor and not the borrower"; and that the Corporation was at all times behind its issued and would at any time pay back the bonds at a discount of one per cent (1%) which was accrued interest, and that the Corporation was always engaged in first mortgage bonds.

(3) That among the representations that were made to the bond investors it was stated as follows:

"Straus Bonds

By careful study and specialization, over a period of 42 years, S. W. Straus & Co. has developed the largest national organization of its kind, specializing in bonds secured by office buildings, apartments, hotels, industrial properties and warehouses in the larger cities.

Each property is suited to its location; busy corners and proximity to labor supply for the mercantile and industrial; natural beauty and convenience for the residential.

Surrounded by a chain of safeguards known as The Straus Plan, each bond issue underwritten by this House has been made to contain every element of safety.

How well we have served our tens of thousands of clients can best be judged by our record,—Forty-two Years Without Loss to Any Investor."

54 (4) Under the heading "Straus Service" it stated in its circulars and pamphlets:

"This House, despite its great expansion over a period of years, has not lost touch with the needs of the individual investor, as so often happens when an institution becomes very large, but has built up its service departments to such an extent that it is now in closer touch with its clients than ever before.

We recognize that an investment house has other obligations to its clients than the safeguarding of securities. We act as an adviser along both the lines of investment and income tax. Our collection department is equipped to make collections on all coupons and bonds of other issues in addition to those underwritten by S. W. Straus & Co. To save our clients any unnecessary trouble and annoyance, they are encouraged to clip all coupons coming due during a current year and mail

them to us at one time. We then issue a receipt and remit as these coupons become due. Our safekeeping department enables the investor to receive without charge, services similar to those rendered by a trust company, as the coupons are clipped each month and checks mailed promptly."

(5) Under the heading "Our Duty to Our Clients" it stated:

"In addition to the aforementioned services there is still another—the most important of all.

We believe that our task is not ended when we have underwritten an issue and marketed the bonds. Every possible precaution is taken during the life of these securities to maintain them in the same attractive position in which they were when offered to the public.

Too much emphasis cannot be laid upon the amortization and monthly payment features, both of which are integral parts of the Straus Plan. Under the Straus Plan, the borrower, as soon as the mortgage is made, must immediately pave the way for the paying off of the debt. In our opinion the liquidation of the mortgage through earnings is the most vital necessity of a good loan. We do not consider the financing of a first mortgage bond issue which cannot in itself show net earnings sufficient not only to pay interest charges, but also to pay off an average of about 5% of the principal each year."

(6) That upon these representations and having implicit confidence in S. W. Straus & Co. and their officers and directors, complainants and other purchasers have invested
55 money in the securities sold by it.

(7) That in the course of its business as aforesaid said defendants have caused to be floated a bond issue of $1,000,000, November 1, 1919 on the property known as the Sovereign Hotel, which bond issue was executed by a corporation known as the Sovereign Hotel and Building Corporation, for the purpose of erecting a building on the vacant land described as follows:

Lots 11 and 12 in Block 6 in Cochrane's Second Addition to Edgewater in Section 5, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

That the bond issue was payable in installments of:

$20,000. November 1st, 1921;
30,000. November 1st, 1922;
40,000. November 1st, 1923;
40,000. November 1st, 1924;
45,000. November 1st, 1925;

and $50,000. thereafter annually, with final payment of $575,000. on November 1st, 1931, bearing interest at six per cent (6%) per annum payable semi-annually, which bond issue was secured by a trust deed of Arthur W. Straus, one of the officers of said S. W. Straus & Co., filed of record in the office of the Recorder of Deeds of Cook County, Illinois, as Document Number 6699724, reference being had to this trust deed as if same were incorporated herein; that thereafter the Sovereign Hotel Corporation was organized and the title to the property was conveyed on July 29, 1922 to this new corporation which assumed the mortgage debt by a deed of conveyance recorded in the office of the Recorder of Deeds as Document No. 7594107, and that all of the goods and chattels located in said hotel were pledged as additional security by the original mortgagor and by the new corporation
56 which executed a new chattel mortgage.

(9) At about the time when the Sovereign Hotel Corporation was organized another bond issue of $1,000,000. was floated by the defendants dated August 1st, 1922, for the purpose of constructing a building adjacent to the first building known as the Sovereign Hotel Annex, which bond issue was dated August 1st, 1922, and was payable:

$20,000 February 1st, 1925	$44,000 February 1st, 1931
30,000 February 1st, 1926	46,000 February 1st, 1932
34,500 February 1st, 1927	48,500 February 1st, 1933
37,000 February 1st, 1928	51,000 February 1st, 1934
39,000 February 1st, 1929	53,000 February 1st, 1935
41,500 February 1st, 1930	55,500 February 1st, 1936

$56,000 February 1st, 1937

and $442,000. August 1st, 1937, bearing interest at six per cent (6%) per annum, secured and described by a trust deed to Melvin L. Straus, another officer of S. W. Straus & Co. filed of record in the office of the Recorder of Deeds as Document No. 7717203, conveying therein the following described premises:

The south thirty-seven and one half (37½) feet of Lot Eight (8), all of lots nine (9) and ten (10) in Block six (6) in Cochran's Second Addition to Edgewater, said Addition being a subdivision of the East fractional half (except the West 1,320 feet of the South 1,913 feet thereof) of Section five (5), Township forty (40) North, Range fourteen (14) East of the Third Principal Meridian.

(9) That plaintiffs have purchased the bonds hereunder

on the foregoing issues and are now the legal holders and owners thereof.

(10) That the building on which the bond issue was first floated will be hereafter designated as "Sovereign" and the building on which the second bond issue was floated will be designated as "Annex".

Said Sovereign consists of a ten story fireproof apartment hotel building, containing one hundred twenty-six (126) units of one, two and three rooms and is located on the north-
57 west corner of Kenmore and Granville Avenues, Chicago, Illinois. Said Annex is a ten story fireproof apartment hotel building containing one hundred ninety-eight (198) furnished hotel rooms and is immediately adajcent to and directly connected with the Sovereign.

(11) The Sovereign and Annex are operated as a single unit and together they form one residential hotel and are being conducted and operated by the same management and said Annex forms an integral part of the Sovereign.

(12) That for the purpose of enabling them to raise funds to construct the building they caused to float a junior bond issue at about the same time when the first mortgage bond issue was floated on the Annex, and the said Sovereign Hotel Corporation executed its trust deed to the Chicago Title and Trust Company, as Trustee, dated November 11, 1922 and recorded as Document No. 7728289 securing the junior bond issue of $250,000.00.

(13) That both bond issues on the Sovereign and Annex were in default since 1925, but such defaults were concealed from the plaintiffs and the other bond owners and the trustees named in the several bond issues entered into physical possession of said Sovereign and Annex on May 8, 1925, and continued to remain in possession thereof until August 14, 1934, but when the interest payments and serial maturities of the bonds matured from time to time same were paid by the corporation, which was the paying agent, and the facts that the issues were in default and that the Trustees were in possession thereof were not revealed to the bond investors.

58 (14) That thereafter the officers and directors of S. W. Straus & Co. and the members of S. W. Straus & Company, caused to institute foreclosure proceedings on the junior bond issue in the Superior Court of Cook County in the cause entitled "Chicago Title and Trust Company vs. Sovereign Hotel", case No. 483219, which bill of Complaint

was filed on August 17, 1928, and that thereafter they procured a Decree of foreclosure and sale, and the premises were sold under the Decree to Sidney H. Kahn, an officer and director of S. W. Straus & Co., and a co-partner of S. W. Straus & Company, and a Master's Deed was issued to him on March 23, 1931, and he thereby became the record owner of the title, but in reality no money was paid by him for the purchase of the premises at the sale, and that the purchase by him in his individual name was in order to conceal the facts that the company which floated the bond issue acquired the property at its own foreclosure, and that this was done in order to enable the company and the house, and their officers and agents to maintain the reputation of the house and to be in a position to advertise that their bond issues were in good standing in the manner and form as above stated, and that the whole proceedings were initiated with the aim of obtaining the income of the property and to apply it in payment of bonds and coupons as they mature without informing the bond owners of such facts, and that same was fraudulent.

(15) During said period the two trustees were in possession of the two properties since May 8, 1925, because of the existing defaults under the mortgage indebtedness, and while they had acquired the title ostensibly in the name of Sidney H. Kahn, but in reality for S. W. Straus & Co., the said S. W. Straus & Co., through its officers and agents, mailed a communication to the bond owners dated January 24, 1931, advising them in the letter that in connection with the Annex there has been deposited with it by the mortgagor $9,375.00 towards the payment of the interest amounting to $25,-
59 935.00 which will mature on February 1st, 1931 and no provision was made for the payment of the bonds in the amount of $44,000. which will be due on said date, and that the financial structure of both the Sovereign Hotel and the Sovereign Annex requires reorganization; that by this letter the bond owners were advised for the first time that the property was acquired by S. W. Straus & Co. in the junior mortgage foreclosure proceeding, but it was stated in that letter that this was done in order to protect first mortgage bondholders on both properties", and in order to facilitate the reorganization for the protection of the bondholders' interest a Bondholders' Committee was appointed consisting of Sidney H. Kahn and other active officers of S. W. Straus & Co., and the bond owners were urged to deposit their bonds with the Straus National Bank and Trust Company of Chi-

cago, another institution controlled by the defendants, as it more fully appears from the letter dated January 24, 1931, which is in words as follows, to-wit:

60 (16) That the bondholders were not informed in that communication, nor in any other communications previous to that, that the bond issue was in default since 1925 and that the Trustees were in the physical possession of such properties, but such facts were continued to be concealed from them.

(17) That thereafter two foreclosures were instituted by the Trustees of the two bond issues, the one of the Annex was filed April 16, 1931 in the Circuit Court of Cook County in Case No. B-218773 entitled Samuel J. T. Straus, as Trustee, vs. Sovereign Hotel Corporation, and the foreclosure on the Sovereign was filed April 27, 1931 in Case No. B-219230, entitled Melvin L. Straus, as Trustee, vs. Sovereign Hotel, in the Circuit Court. That no bond owners were made parties to any of the proceedings and the Trustees represented to the Court in each proceeding that the bond owners were unnecessary parties and that there was no conflict of interest between the bond owners and the Trustees.

(18) That foreclosure decrees were entered in both cases; the decree in the Annex foreclosure was entered January 13, 1932 and the decree in the Sovereign foreclosure was entered February 19, 1932. That the decree in the Sovereign Finds:

1. That the material allegations of the bills were proven and the equities were with the complainant and that he was entitled to the relief.

2. That the bond issue was duly executed, the trust deed duly made, signed, acknowledged and recorded and the bonds were duly sold to the public; that the new corporation acquired the title and assumed and agreed to pay the mortgage.

3. That Sidney H. Kahn and Nettie Kahn, his wife, were the owners of the premises and their interest was subject to the bond issue.

4. That Melvin L. Straus became trustee under the terms of the trust deed because of the resignation of Arthur W. Straus.

61 5. That the trust deed vested the exclusive right of action in the trustee and he had the right to maintain the action in his own name without making the bond owners parties, there being no conflict of interest.

6. That Bonds Nos. 1 to 90 which matured on and prior

to November 1st, 1926, were paid and cancelled; that all coupons due on and prior to November 1st, 1929, were paid and cancelled.

7. That Bonds Nos. 291 to 360 in the amount of $50,000. matured November 1st, 1927, and $9052.28 was paid on account thereof.

8. That Bonds Nos. 361 to 430 in the sum of $50,000. matured November 1st, 1928, and $27,718.95 was paid thereon.

9. That Bonds Nos. 437 to 505 in the sum of $50,000. were due November 1st, 1929 and $26,781.03 was paid thereon.

10. That Bonds Nos. 506 to 580 in the amount of $50,000. were due November 1st, 1930 and no part thereof was paid.

11. That on May 1st, 1930 Coupon No. 21 in the amount of $18,750. became due and was not paid.

12. That on November 1st, 1930 Coupon No. 2 matured and was not paid, and that there was also default in the payment of the 1928 taxes.

13. The Trustee gave due notice of such defaults to the mortgagor and because of the failure to remedy the defaults within sixty days the trustee declared Bonds Nos. 581 to 1670 aggregating $575,000. and interest thereon immediately due and payable.

14. That all of the bonds Nos. 291 to 580, inclusive and all interest coupons which were due, including up to November 1st, 1930 were taken up and subordinated and owned by S. W. Straus & Co.

(19) On May 8, 1925 the trustee entered into possession because of the then existing defaults and thereafter said Arthur W. Straus, as trustee, surrendered possession to Melvin L. Straus when he succeeded to his duties on May 9, 1929, who is now in possession of the premises; that there
62 was due to the Trustee as a superior lien for his fees the sum of $3500., the fees of his counsel in the amount of $21,005., and for moneys advanced for the 1928 taxes $3500., making a total amount of costs and fees $28,879.43., and there was due to the Trustee as a subordinate lien $618,206.20 for the benefit of the bond owners; and there was due to the Trustee for the benefit of S. W. Straus & Co. as an inferior lien to the above two liens $202,308.22.

The Decree on the Annex after finding that the material allegations of the Bill were sustained and that the complainant was entitled to the relief Found:

1. That Samuel J. T. Straus became successor trustee upon the resignation of Melvin L. Straus, which was duly filed under the terms of the trust deed.

2. That Sidney H. Kahn became the owner of the premises subject to the existing bond issue.

3. That Bonds 1 to 119 which matured on and prior to February 1st, 1927 were paid and all interest due on and prior to August 1st, 1929 was paid.

4. That Bonds 120 to 171 in the sum of $37,000. due February 1st, 1928 were paid on account the amount of $3,551.86.

5. That Bonds 172 to 226 due February 1st, 1929 in the amount of $39,000. were reduced by the payment of $9,919.17.

6. That Bonds 227 to 287 for $41,500. were reduced by the payment of $2050.00.

7. That on February 1st, 1930 Coupon No. 15 in the amount of $27,283.75 matured and $22,736.46 was paid on account.

8. That on August 1st, 1930 Coupon No. 16 in the sum of $25,935. matured and was not paid.

9. That Coupon No. 17 matured February 1st, 1931 in the sum of $25,935. and $9,375. was paid on account thereof.

10. That Bonds 286 to 347 in the sum of $44,000. matured February 1st, 1931 and were not paid.

11. That because of the defaults aforesaid the trustee declared bonds Nos. 348 to 1755, aggregating $754,000. immediately due and instituted the foreclosure proceedings.

63 12. That all of bonds 120 to 285 both inclusive, and coupons 15, 16 and 17 were owned by one Mabel Strickrod and were subordinated.

13. That because of existing defaults in 1927 the trustee entered into possession on May 8, 1925 and is now in possession of the premises.

14. That there was due to the trustee $30,899.51, as a superior lien. for his fees in the sum of $4,000., the sum of $23,000. for the fees of his counsel, $3500. for the advancement of the 1928 taxes and other costs, and there was due to the trustee for the benefit of the bond owners and subject to his lien the sum of $848,931.51, and there was due to Mabel Strickrod on the subordinated bonds the sum of $173,574.34.

(20) The Decree on the Sovereign found that the bond issue was placed under the Act which was then in existence calling for the issuance of a Master's Certificate prior to sale and directed that the Master in Chancery issue to the trustee a certificate of indebtedness for the above amounts and to make a sale of the premises at the expiration of fifteen months from the date of the certificate and that a deed

be issued upon the sale thereof by the Master to the purchaser at such sale.

(21) The Decree on the Annex directed a sale in the event of the non-payment of the amounts due in five days, and provided that if no redemption would be made within the statutory period that a deed be issued to the purchaser, reference being had to both decrees which are now on file in this court and which will be introduced in evidence as EXHIBITS "A" AND "B" and made a part hereof.

(22) Both decrees found that the trustee was in possession since May 8, 1925 and authorized the trustee to remain in possession until the expiration of the period of redemption from the date of the respective sales, and the court
64 retained jurisdiction of the subject matter and it retained jurisdiction for the following purposes:

1. To appoint a receiver of the mortgaged premises upon the application of the complainant.

2. For the administration of the property and for the settlement of the trust accounts.

3. To advise the trustee in connection with his trust duties, as it more fully will appear from the said decrees which are now on file in this court.

(23) Having thus procured the title to the property under their control and the entry of a decree in a proceeding to which the bond owners were not parties and based on their self-serving evidence they thereafter and without first consulting the bond owners and without giving them the opportunity to have their day in court, they thereafter communicated with the bondholders and one communication was mailed to them on March 7, 1932 which revealed to the bond owners for the first time that the foreclosure proceedings were instituted and that decrees were entered and the bond owners were urged to deposit their bonds with the committee in order to protect their interests, as it more fully will appear from the communication, which is in words as follows, to-wit:

65 (30) That on November 14, 1932 another letter was mailed out to the bond owners and the name of Samuel S. T. Straus, one of the trustees, appears as one of the new members of the Committee. The letter states, among other things:

(a) That the management reduced the payroll to the extent of 17% without impairing the operating efficiency of the properties.

(b) That the income for nine months expiring ending September 30, 1932 was $155,640.34 and the expenses $136,033.19, leaving a net profit of $19,607.15 before provision for current taxes amounting to $15,374.97, and cash on hand was $7564.96.

(c) That the unpaid taxes exclusive of the taxes for 1933 plus penalties were $48,500. and the decrease in the cash on hand was due to the payment of foreclosure expenses.

The bondholders were again requested to deposit their bonds with the Committee, as it more fully appears from the letter which is in words as follows:

66 (25) That on July 13, 1933 the Committee addressed to the bondholders a Notice of the Plan of Reorganization. It stated in substance that the trustees were still in possession of the premises for the benefit of the bondholders; that there was due on taxes for 1929, 1930 and one-half of 1931 the amount of $65,500.00 after paying $5417.00 on account of taxes. It further stated that the gross income for the year 1932 was $206,782.58 and the expenses $181,963.96, leaving a net profit of $24,788.62 before the payment of the current taxes amounting to $28,750.00, which would leave a deficiency after paying of taxes for the current year of $3961.38. It stated that the properties could not be reorganized except as a single unit; that no outside bidder should bid at the sale due to the prevailing economic conditions, and that the Committee will probably be the only bidder at the sale; that the Committee worked out a reorganization plan, which is in substance as follows:

(a) A new corporation was to be organized to acquire the property at the foreclosure sale.

(b) Ninety per cent of the common stock to be issued by the new corporation was to be given to the bond owners in lieu of their bonds.

(c) Ten per cent of the common stock will be issued to the Receiver for S. W. Straus & Co. for its interest.

(d) The bondholders of S. W. Straus & Co. will receive 12½ shares for each $1,000 bond.

(e) The bondholders of the Annex will receive ten shares for each $1,000 bond.

(f) The bond owners will receive certificates in lieu of shares and the right to vote will be vested in three members of the Committee designated as Trustees, including one Sidney H. Kahn, an officer of S. W. Straus & Co.

(g) That these trustees be paid their reasonable com-

pensation by the new corporation and the manage-
67 ment will be voted by directors elected by the new trustee.

(h) The committee will receive 1½% of the face amount of the bonds for its compensation, besides the cost for postage, printing, stationery and all other expenses.

(1) The The Depositary will receive the proceeds of the bid at the sale minus all foreclosure expenses.

It was further stated in the Notice that the bond owners who desired to dissent from the Plan and to agree to withdraw their bonds would have to pay three per cent (3%) of the face amount of the bonds in order to so dissent, and those who will dissent and the non-depositors will only receive the proceeds of the bid to be made by the Committee minus all expenses, and their share will be greatly less than the share of the depositors and the time limit to deposit bonds was set as of August 13, 1933, as it more fully appears from the Plan, which is as follows:

68 (26) That in order to coerce the depositors to accept the Plan it was stated in the letter that non-depositors who objected to the Plan were to pay three per cent (3%) of the face amount of the bonds in order to withdraw; that the Committee intended to acquire the property at the lowest bid and the non-depositors would receive the proceeds of this lowest bid and thereby the bond owners were coerced to accept the Plan and to deposit their bonds.

(27) That to accomplish this scheme a corporation was formed under the name of Kenmore-Granville Hotel Corporation and Sidney H. Kahn conveyed his title to the corporation on October 27, 1932 by a deed filed of record as Document No. 11174942; that the incorporators of this corporation were William H. Heinsimer, Charles J. Bech and Edward R. Heinsine, whose office is in the same place where the S. W. Straus & Company was conducting its business and is now being conducted by its successor in business, the Straus Service Corporation, and plaintiffs believe that they are mere dummies, that the entire capital stock consists of 15,000 shares without par value and only $1,000 has been paid thereon, and it is the plan of this corporation to become the owner of the property and to vest the management thereof in the trustees selected by the defendants and the bond owners will have no voice nor vote therein.

(28) That plaintiffs purchased bonds Nos. 1472 and 744 of the foregoing issues about the time they were floated in the market from S. W. Straus & Co., and after receiving the

first letter soliciting them to deposit their bond with the depositary of the Committee they believed in the good faith

69 (29) When plaintiff deposited her bond she was told that this was for the purposes of reorganization, and that this would avoid the foreclosure proceeding, and would protect her interest with the least expense; that no information was given to her thereafter until about March 7, 1932, that the trustee had declared the bond issue due, and that foreclosure proceedings were instituted, and that the property in question was conveyed to a new corporation together with the property of the Sovereign Hotel, which is being operated as one unit, and that all of this was concealed from her, and that she did not know when she purchased the bond on the Sovereign Annex that the property could not be operated as a separate unit, but had to be operated with the Sovereign Hotel as one unit. It was only after the entry of the two decrees of foreclosure on the two bond issues that a letter was mailed to her as well as to the other bond owners dated March 7, 1932, stating therein among other things as follows:

(a) That Melvin L. Straus continued to be in possession of the Sovereign;

(b) That Samuel J. T. Straus continued to be in possession of the Annex;

(c) That $38,000 was spent during the year for repairs and equipment.

(d) That at the request of all of the Committee the Trustee filed foreclosure proceedings and decrees were entered;

(e) That foreclosure and sales were held up pending the formulation of reorganization plans;

(f) That 1929 taxes in the amount of $20,902.93 were unpaid.

(g) That the total income for the year ending December 31, 1931, was $424,988.61 and expenses were $405,018.65 and the net cash on hand was $18,366.61.

The letter urged the bond owners to deposit their bonds and was in words as follows:

70 (32) That when the bonds were deposited with the Depositary of the Committee the bond owners had no knowledge that S. W. Straus & Co. was the real owner of the premises, and if such facts were known they would never have deposited their bonds with the Committee selected by it consisting of its active officers and would never have entrusted their bonds to the persons who represented the owner

of the equity, and that this was a fraud upon all depositors including the plaintiffs in this cause.

(33) While it was disclosed in the notice of the reorganization plan that S. W. Straus & Co. had junior interests in the premises and would receive ten per cent (10%) of such interest, the bondholders were helpless, for the reason that they were required to pay three per cent (3%) in order to dissent from the Plan, which was approximately one-half of the market value of the certificates of stock, and they were warned beforehand that if they withdrew the bonds they would only receive the proceeds of a nominal bid minus all expenses, and were thereby coerced to keep their bonds with the Committee and to refrain from withdrawing same, and the bondholders were, therefore, not free to act but were coerced into this situation.

(34) That the only list of the bond owners is in the possession of the Committee and of the Trustees, and none of the bond owners have the means of communicating between themselves, and the only sources of information are received from the Committee and no concerted action can be taken and that the list of bond owners is kept exclusively in the
71 possession of the Committee and is not available to the bond owners. When plaintiffs received the Plan of Reorganization they demanded the return of the bonds without offering the compensation to the Committee, and that this offer was refused.

(35) Plaintiff further says that she had no knowledge that the bond issues aforesaid were in default way back in 1925 and continued to be in default and that the Trustees were in possession of the premises because of such default; that when they presented the coupons semi-annually up to the last default date such coupons were duly paid; that during the years 1925 to 1929 S. W. Straus & Co. had a custom to take back the bonds sold by it at a discount of one per cent (1%), and that the bonds were also sold upon the representations that S. W. Straus & Co. would always take them back at a discount of one per cent (1%) plus accrued interest, in pursuance of its custom, and if plaintiff would have known the real facts they would have returned the bonds to it and received the par value thereof less one per cent (1%), as was done in many cases; or upon the refusal thereof would have taken steps to protect their interest as well as the interest of the other bond owners, and would have brought about a foreclosure and sale of the premises prior to the collapse of

the real estate situation in 1929, and would have realized the value of the property in accordance with the market of real estate which was in existence prior to the present economic depression, and because of the concealment of facts they were prevented from doing so and they were thereby de-
72 prived of their rights and remedies and were defrauded and caused to sustain and suffer loss.

(36) That S. W. Straus & Co. and its officers, being trustees of each bond issue, and the members of the Committee which were also its active officers have violated their Trust and the confidence reposed in them and have betrayed their fiduciary duties to the beneficiaries of the Trust, and moreover, have violated their undertakings to use every precaution during the life of the securities to maintain them in the same attractive position in which they were offered to the public; and they have neglected to maintain the safeguards of the Straus Plan under which the securities were sold; that it was their duty to notify the bond owners of the defaults in 1925 and subsequent thereafter and of the fact that the Trustees were in possession and not to conceal such facts from them.

(37) It was the duty of the Trustees and of the other parties to reveal to the court the facts that the bond owners were not informed of the existing defaults since 1925. It was also their duty to reveal to the court the true facts; that Sidney H. Kahn, the pretended owner of the Sovereign and Annex, who acquired the property at a foreclosure sale was not the actual owner but was a mere dummy for S. W. Straus & Co., the secret owner, and the Trustees who were its officers and directors were serving in a dual capacity as representing the bond owners and the house of issue, which was the owner of the property, and as such their interests were in conflict, as on the one hand they had to serve the
73 interest of the bond owners and on the other hand they were the servants of the house of issue wherein they were financially interested. And because of the concealment of these material facts they perpetrated a fraud upon the court and were not entitled to these benefits, and such provisions in the Decree finding that the Trustees have performed their duties and were legally entitled to maintain the action as the representatives of the bond owners and were entitled to compensation were wholly null and void and of no force and effect against the beneficiaries of the Trust who were indispensable parties to such proceeding, especially in view

of the fact that the Trustees were seeking to prove their accounts while as Trustees in possession with the beneficiaries of the Trust, and the jurisdiction conferred on the court was therefore only colorable and not real, and the Decree therefore was procured in a proceeding in which the court was without jurisdiction and was collusive and fraudulent and is of no force and effect.

(38) That the Trustees were without legal authority subsequent to May 8, 1925 to prefer one bond owner over another and especially to prefer the bonds and interest coupons acquired by S. W. Straus & Co.; that they were without legal authority to pay on the Sovereign subsequent to May, 1925 the bonds which matured November 1st, 1925 in the amount of $45,000; bonds which matured November 1st, 1926 in the amount of $50,000; $9052.28 on bonds which matured November 1st, 1927; $27,718.95 on bonds which matured November 1st, 1928; and $27,741.03 on bonds which matured on November 1st, 1929; that they were without authority to

74 pay the bonds which matured subsequent to May, 1928, on the Annex, being $30,000. of the maturity of February 1st, 1926; $34,500. of the maturity of February 1st, 1927; $3551.80 on the maturity of February 1st, 1928; $9919.17 of the maturity of February 1st, 1929; $2050.00 of the maturity of February 1st, 1930; the total sum so legally paid amounting to $239,532.43; that the payment of the funds to S. W. Straus & Co. on account of interest coupons which it had taken up uncancelled and subordinate since May 8, 1925 were also illegal, and that the parties who participated in such payment should be required to account and be held liable, jointly and severally, for their actions.

(39) Subsequent to the time when Sidney H. Kahn became the owner of record of the property and when S. W. Straus & Co. became the equitable owner thereof it was their duty to pay the taxes and the interest, and the Trustees who were in possession of the premises were also charged with the duty to see that the payments of the taxes were made and to prevent the accumulation of penalties, and in diverting the funds towards the payment of interest coupons of S. W. Straus & Co. they thereby betrayed their trust duties; that they themselves were guilty of the defaults for which the Trustees have pretended to have declared the bond issue due, and the proceedings therefore were not commenced in good faith for the benefit of the bondholders but for the benefit of the parties who were guilty of the betrayal of the trust and confidence reposed in them.

(40) That the whole proceedings were conceived in fraud and were not for the purpose of foreclosing the interest
75 of the mortgagors or the owners or for the benefit of the bondholders, but in the interest of S. W. Straus & Co., its officers and directors, as the owner of the equity to foreclose the interest of the bond owners who would not trade their bonds for the certificates of stock to be issued by the Committee or the new corporation which was to perform under the Plan, and the parties did not come into court with clean hands and sought the approval of the court for their fraudulent acts without revealing to the court the true situation.

(41) That Mabel Strickrod was not the owner of the bonds and coupons as found in the Decree, but was a mere dummy for S. W. Straus & Co., or its officers and directors, and the representations made to the court that she was the owner of the subordinate bonds and coupons was fraudulent in order to conceal the true situation that S. W. Straus & Co. were the owners thereof.

(42) That the reorganization plan is a scheme to deprive bondholders of their rights to the bonds and to the payment thereof and to vest the officers and directors with the management and control of the property and to relegate the bond owners to the position of stockholders in a corporation wherein they would have no voice or vote as the holders of beneficial certificates and the trustees were wholly controlled by the manipulators of this reorganization scheme.

(43) That the Trustees whose duty it was to be impartial and to protect the bond owners at a time when
76 they were most needed have alleged themselves with the Committee and with the parties whose interest is antagonistic to that of the bond owners, and that Samuel J. T. Straus, one of the trustees, is a member on said Committee and because of this his interest is in conflict with that of the bond owners, due to the fact that as a member of the Committee it is to his interest to acquire the property at the lowest bid while as a trustee it should be his duty to receive the highest bid for the property.

(44) That in these prevailing economic conditions there are no buyers for real estate of the size and character of these properties, and unless the trustees will perform their duties and bid the property for the benefit of all bond owners the properties will be sacrificed at a sale to the nominee of the Committee at any price it would bid, and because of the affiliation of the trustees with the Committee they have adopted a

policy to stay away from the sales, not to solicit any bids and to permit the Committee to acquire the property at its own bid and the non-depositors will only receive the proceeds of such nominal bid and be deprived of the real value of the property, as those Trustees have done in many instances in connection with the bond issues floated by S. W. Straus & Co., by which the bond owners have received less than ten cents on the dollar of the real value of the property.

(45) That the payment of ten per cent (10%) to S. W. Straus & Co. on the Sovereign is wholly without any consideration, due to the fact that the Sovereign was foreclosed under the law which provided that a Master's Certificate 77 be issued and at the expiration of fifteen months from the date of the certificate that a sale be had and the purchaser would acquire the fee title to the premises: that more than fifteen months have expired and that the property would never bring at the sale the full value of the certificate issued by the Master, and therefore, there was no equity of redemption which was given up by S. W. Straus & Co., and the representations made to the bond owners that the ten per cent (10%) was given to it for its cooperation as the owner of the junior interest was due to the concealment of such fact from the bond owners.

(46) That the management of the properties in the name of the two trustees under one unit since 1925, which resulted only in available cash of approximately $11,000, was grossly mismanaged, and while it was held out to the bond owners that the respective trustees were in possession of the premises, and in charge thereof, plaintiff alleges that they were only nominally in possession, but the actual management thereof was conducted by the Straus organization; that towards such end and purpose the Straus organization has organized a corporation under the name of Wholesale Merchandisers, Inc., and that Sidney H. Kahn is President, Frederick W. Straus, Vice President, Edward R. Heinsimer, Secretary, and Nathan H. Oglesbee, Treasurer, and the directors are the same persons with the addition of Harry W. Solomon, all of whom were formerly officers and directors of S. W. Straus & Co.; that this corporation operated and managed by them, is engaged in the business of purchasing groceries, meats, carpets, furniture, engineering service and hotel supplies of every description, which it buys at wholesale, and re-sells such merchandise or service to all of the properties managed and controlled by the Straus organization through its trustees or committees, in-

cluding the hotel in question, at a profit; that the said
78 organization also maintains other corporate bodies or instrumentalities for the purpose of supplying services and supplies at a profit, and that Samuel J. T. Straus, Melvin L. Straus and Joseph D. Blosser maintain an organization under the name and style of "Trustees Management Service", and also "Chicago Management Service" in connection with the management of properties in trust or under committee management and such organizations were employed in connection with the management and operation of this hotel and that the real trustees, whose duty it was to personally manage and supervise the affairs of the property entrusted to their custody and care, have not attended to their duties, and it was their duty as trustees to safeguard the interest of the beneficiaries, and not permit the officers of S. W. Straus & Co., who were associates of the trustees, to operate and manage the properties at personal gain and profit in the form and manner as aforesaid, and that the organization of the corporations were merely for the purpose of enabling the members of the Straus organization to take undue advantage of the properties on which they floated the bond issues, and particularly, the bond issues described above, and by reason thereof they should account for the profits made and for the loss sustained by reason of the gross mismanagement thereof.

(47) That the trustees had no right to use the income from the premises during the time when they were in possession for any other purpose except to discharge the tax liens and prevent penalties, and the payment of these funds for other purposes except taxes were illegal and therefore, the trustees are liable for the 1928, 1929 and 1930 taxes which they failed
79 to pay while the trustees were in possession. It is provided in the trust indenture of each of the foregoing bond issues that in the event of the entry into possession by the trustee because of defaults, the trustee may manage and operate the same and

"after paying out of the revenue from said mortgaged property all expenses of management and operation of the same, including rents, insurance premiums and the cost of such repairs, replacement, alterations and useful additions as may seem to him proper and judicious, and all taxes, assessments or charges or liens upon said mortgaged property, or any part thereof * * * apply the residue, if any, first to the payment of any amounts due to the Trustee under this Indenture together with interest thereon at the rate of 7% per an-

num * * * next, to the payment of defaulted coupons, if any, * * *, next to the payment of accrued interest on bonds which shall have become due by lapse of time or declaration, next, to the payment of income tax payments hereinbefore provided for, and next, to the payment of the principal of those of said bonds, if any, then matured by lapse of time or declaration, and unpaid; in every instance such payment shall be made rapidly to the persons entitled thereto without discrimination or preference."

That it is also provided in each of said trust indentures that the mortgage will pay or cause to be paid all taxes and assessments within 30 days after the same shall become respectively due and payable and will produce to the trustee receipts thereof within 10 days thereafter, and in the event of a contest as to the payment of any taxes or assessments in good faith and by appropriate legal proceedings, it was provided:

"The mortgager shall deposit with the Trustee an amount of money sufficient to discharge such alleged charge or lien in full, including costs and interest to be used by the trustee for the purpose of discharging the same in the event that the mortgagor shall be unsuccessful in such contest * * * In lieu of depsitiing such cash the mortgagor shall, however, have the right to give to the trustee a bond in form and with a surety satisfactory to the trustee"

That under the foregoing clauses the trustee was charged with the duty of either obtaining cash or a surety bond for the payment of the taxes which he neglected to do, and which were concealed from the bond owners, and after the trustees have entered into possession it was their respective duties to comply with the foregoing provisions, and they had no right to disburse any of the funds for the payment of interest, principal, in the manner and form as was done without
80 paying the taxes that were due thereon and without preserving sufficient funds for the payment thereof, and such acts and doings were prohibited by the terms of the two trust indentures, and that said trustees have therefore, violated the express terms of the trust indentures in favor of the companies wherein they were personally interested, and they have therefore, made themselves personally liable for such violations.

(48) That on August 7, 1934, Robert M. Sweitzer, as County Treasurer, of this County, commenced suit in the Circuit Court of Cook County under the provisions of the Skarda Act to have himself appointed Receiver ex officio for the fail-

ure to pay the general taxes for the years 1929, 1930 and 1931, and on the 14th day of August, 1934, he was appointed Receiver ex officio in said proceeding because of the delinquency in the payment of taxes in the sum in excess of $50,000, and the Trustees have yielded possession to him and are no longer in possession thereof since that date; that while the County Treasurer is ostensibly in possession of said premises under the Skarda Act, in reality the persons associated with S. W. Straus & Co. and its officers and Successors in business, and who were in charge of the premises up to the date of his appointment, remained in charge thereof, and are receiving 6% of the gross income for their management of the hotel property and its business, and the County Treasurer is not in actual charge or operation thereof, and is maintaining a force of auditors and other agents and paying out large sums and expenditures, and is pretending to manage and operate the hotel business, which is not part of the realty, under the pretext that he is acting as Receiver to collect taxes, all of which is contrary to the law and not within the scope of the act, and null and void.

(49) That the appointment of the County Treasurer as Receiver was void and illegal, and he was appointed in a proceeding wherein the court was without jurisdiction of the parties and the subject matter, and such appointment is
81 a nullity; that the Circuit Court of Cook County had control of the trust estate, and the res was exclusively within its jurisdiction, and it was the duty of the trustees to contest the right of the Receiver, but he negligently failed to protect the trust estate as well as the court, and yielded possession to the Receiver, who is now managing and operating the business of the hotel as well as the real estate, and is paying out large sums of money for management, fees, operation of the business, and conducting the restaurant business at the hotel, and that all of such acts were void and illegal, and it was the duty of the trustees to protect the interest of the trust estate and or resist such illegal acts.

(50) That the provisions of the Skarda Act under which the said Receiver pretends to act, are wholly void and of no force and effect, and are contrary to the Constitution of the State of Illinois and in violation of Section 4 of Article 9 of the said Constitution; that the provisions of "an Act to add Sections 253A, 253B and 253C to act for the assessment of property and for the levy and collection of taxes" do not embrace the subject matter of the appointment of Receivers to

collect the rents, issues and profits; that the Act is void because the appointment of Receivers is a judicial function, and the Legislature is without power to encroach on the Judiciary by designating the County Collector as Receiver and directing his appointment without bond; that there is no statutory provision which makes real estate taxes a lien on personal property; that the appointment of the Receiver to manage and operate the hotel business deprives the beneficiaries of the trust estate of their property without due process of law; that the County Collector is prohibited by the Constitution from engaging in any business enterprises involving risks and expenditures, and that the predecessors of the present County Treasurer in the management of properties under this Act had incurred large liabilities, and after he died there were no funds available to pay the creditors, and it is contrary to
82 the law to permit such official to engage in the operation and management of business enterprises, and by reason of the illegal operation of the premises by the County Treasurer, a Receiver should be appointed to operate and manage the premises under the jurisdiction of this court, and the County Treasurer to be directed to deliver possession to such receiver and out of the funds collected, such taxes as are due may be paid.

Plaintiffs therefore, pray the following relief:

(a) That a Receiver be appointed during the pendency of this cause to operate and manage the premises, as is usual and customary in such proceedings.

(b) That the trustees be required to account and deliver all funds in their possession to the Receiver.

(c) That the trustees be removed and Successor-trustees be appointed.

(d) That an accounting be had of all moneys received and disbursements made, and that the parties who have diverted funds or misused the funds, or who are guilty of gross negligence in the management of the trust estate or in the diversion of the funds or in the wrongful receipt of the funds, be held personally, jointly and severally liable for their action.

(e) That the names of the bond owners be revealed in order that they may be communicated with and given notice of the proceedings and that they may assert their rights therein.

(f) That the Trustees be held liable for their gross negligence in allowing the defaults and in not paying the 1928, 1929 and 1930 taxes and in permitting penalties to accrue.

(g) That the court may find and determine that the Kenmore-Granville Building Corporation was conceived in fraud; that it acquired the title by virtue of the fraudulent proceedings heretofore commenced in the Superior Court of Cook County; that the premises erected together with the improvements thereon were constructed with the funds received from the bond purchasers, and that none of the parties who claimed to have an interest in the equity of redemption have any interest therein, and that there exists a resulting or constructive trust in favor of the bond investors, and that the title held by the record owner belongs in equity to the bond owners who have an interest therein to the extent of their respective investments, and that the trustee to be appointed be vested with the legal title, and the record owner be directed to convey the title to the trustee for the use and benefit of all bond owners, or in the alternative, that the new trustee or trustees may proceed with the foreclosure.

83 (h) That an appraisal may be made of the value of the property, and the parties guilty of fraud and gross negligence be held liable for the difference in such sum as this court may find to be due from them.

(i) That the court may restrain and enjoin all of the defendants, their agents, attorneys and solicitors, from using any of the bonds in their possession or control, and from soliciting the deposit of any bonds, and from using any of the bonds for any of their schemes, and from proceeding in any other court for the enforcement of the decree and from taking any other action at law or in equity until this court will have determined the issues made up by this Complaint.

(j) That the American National Bank and Trust Company of Chicago, and the Bondholders' Protective Committees be required to return the bonds deposited free and clear from any liens or encumbrances.

(k) That the court may find and determine that this Complaint was filed by the plaintiffs in their own behalf and in behalf of all other bond owners who are similarly situated; that the rights of all other bond owners are not in conflict with the rights of the plaintiffs; that it would be too expensive to make all of the bondholders parties due to the fact that they are too numerous and scattered in various States; that the matters upon which this Complaint is predicated are common as to all bond owners, and are centered on the same points of law and facts, and that therefore, the planitiffs herein are the representatives of the class, and that the Complaint was

properly filed in their own rights, and for the use and benefit of all other parties similarly situated who may themselves become parties by name if they so desire.

(l) That the court may grant such other relief in the premises as to equity may seem proper.

(m) That the court may find and determine that the proceedings heretofore commenced in the Superior and Circuit Courts of Cook County were fraudulent and without jurisdiction, and null and void and of no force and effect.

(n) That the County Treasurer, as Receiver, was illegally appointed in a proceeding wherein the court was without jurisdiction of the subject matter, and his appointment was a nullity.

(51) Plaintiffs ask that a Summons be issued requiring the following defendants to appear and answer this Complaint:

Kenmore-Granville Building Corporation
Sovereign Hotel Corporation
Robert M. Sweitzer, as County Treasurer
American National Bank and Trust Company of Chicago, as Depositary.
Mabel Strickrod
84 Sidney H. Kahn
Samuel J. T. Straus
Robert E. Straus
M. A. Rosenthal
Melvin L. Straus
Arthur W. Straus
Frederick W. Straus
William R. Heinsimer
Edward R. Heinsimer
Charles J. Beck
Nathan H. Oglesbee
Joseph D. Blosser

Individually and as officers and directors, and as trustees and as members of committees, and as co-partners of S. W. Straus & Company, and S. W. Straus & Co., and of the corporations and associations above mentioned, and S. W. Straus & Co., a corporation, and Wholesale Merchandisers, Inc.

to the end that they be required to answer this Complaint under oath.

NETTIE MEYER,
Plaintiff.

By SHULMAN, SHULMAN & ABRAMS,
Her Attorneys.

State of Illinois, } ss.
County of Cook. }

MEYER ABRAMS being first duly sworn on his oath, deposes and says that he is one of the attorneys for the plaintiff in this cause, and her duly authorized agent; that he has read the foregoing Complaint prepared by him, and knows its contents, and that it is true in substance and in fact.

MEYER ABRAMS.

Subscribed and sworn to before me this 30th day of January, A. D. 1935.

ROSE RITTENBERG,
Notary Public.

85 III. That subsequent to the filing of the complaint in the Superior Court of Cook County, petitioner, through her counsel, served notice on the defendants of a motion to be presented in the Superior Court of Cook County, February 13, 1935, for the appointment of a receiver, and for the issuance of a restraining order pursuant to the prayer contained in said complaint, but in order to escape trial in the matters contained in said complaint, and to deprive the state court of the jurisdiction, the alleged debtor corporation voluntarily appeared in this court on the same morning when the motion was to be heard in the Superior Court, and filed its alleged consent and obtained, without notice given to your petitioner, the order approving the good faith of the petition, and also restraining all creditors from proceeding in any other court, and it thereafter, through its attorney, appeared in the Superior Court with the injunction order issued by this court, and therein contained that a restraining order issued in this cause, restraining and enjoining this petitioner from further proceeding with this cause in the state court. At a hearing had in the Superior Court of Cook County it developed that the attorney for the Kenmore Granville Hotel Corporation did not represent said corporation prior to the filing of the petition in this court; that the corporation was never possessed of any of the property since the incorporation; that no corporate resolutions were signed prior to the filing of the consent in this court, and that the filing of the consent was for the purpose of obtaining a restraining order and to oust the state court of its jurisdiction; that neither the Kenmore Granville Hotel Corporation nor any of its offi-

cers and directors have ever invested any money in the project, and the Chancellor then stated that it was unfair to the Superior Court of Cook County to proceed with the matter in the District Court when the matter was to be heard the same day in the Superior Court in the manner and form as it was done, and he continued the hearing to March 18,
86 1935, and stated to counsel for the petitioner that he should appear in this court on behalf of the court and to inform it of the facts, and that he would hold the matter in abeyance until the disposition of the injunction matter pending in this court.

IV. That the Kenmore Granville Hotel Corporation is not a debtor, that it did not execute any of the bonds, nor did it assume any of its obligations; that the corporations which executed the bond issues involved have been dissolved for more than two (2) years prior to the filing of the petition; that all the interest of the corporations was foreclosed in the prior foreclosures set forth in the complaint, and Masters' Deeds were issued, so that there is no debtor in the sense of the Bankruptcy Act which may be reorganized under Section 77b, and this court is, therefore, without jurisdiction of the subject matter, there being no debtor to be reorganized under Section 77b of the amendment to the Bankruptcy Act; that insofar as the injunction and the proceedings initiated here tend to interfere with the due course of administration in the state court, involving the subject matter of fraud and breach of trust, this court is without jurisdiction to interfere with such proceedings which are not included in the Bankruptcy Act, nor in its amendments, and the injunction, therefore, should be dissolved and held for naught.

V. That the petition filed in this cause was not filed in good faith; that it was known to the petitioners that the corporations which executed the bond issues were dissolved, and their interest, if any, was foreclosed, and that the title to the property was in such a shape that it could not be reorganized in this court, and the proceedings for injunction were initiated in collusion with the Bondholders' Committee, and for the purpose of putting over a fraudulent reorganization, as set forth in the complaint.

87 Therefore, petitioner prays:

(a) That the proceedings initiated here be dismissed for want of jurisdiction.

(b) That it be dismissed for want of good faith.

(c) That the injunction be dissolved.

(d) That the court may grant such other relief in the premises as to equity may seem proper.

NETTIE MEYER,
Petitioner.
By: SHULMAN, SHULMAN & ABRAMS,
Her Counsel.

State of Illinois, } ss.
County of Cook. }

MEYER ABRAMS, being first duly sworn on oath, deposes and says that he is one of the attorneys for the petitioner in the above entitled cause, and her duly authorized agent herein; that he has read the above and foregoing petition by him subscribed; knows the contents thereof, and that the same is true in substance and in fact.

MEYER ABRAMS.

Subscribed and sworn to before me this 23rd day of February, 1935.

YETTA MAILICK,
(Seal) *Notary Public, Cook County, Illinois.*

88 And on, to wit, the 27th day of February, 1935, came the Intervening Petitioners by their attorneys and filed in the Clerk's office of said Court a certain Joint Intervening Petition in words and figures following, to wit: Filed Feb. 1935.

89 IN THE DISTRICT COURT OF THE UNITED STATES.

* * (Caption—58701) * *

JOINT INTERVENING PETITION OF GEORGE W. ROSSETTER, JAY C. McCORD AND SIDNEY H. KAHN, AS THE SOVEREIGN ANNEX FIRST MORTGAGE BONDHOLDERS' COMMITTEE AND THE SOVEREIGN FIRST MORTGAGE BONDHOLDERS' COMMITTEE, REPRESENTING CERTAIN HOLDERS OF FIRST MORTGAGE BONDS OF SAID ISSUES, PURSUANT TO ORDER OF COURT ENTERED FEBRUARY 13, 1935.

To the Honorable, the Judges of the District Court of the United States, for the Northern District of Illinois, Eastern Division:

Your petitioners, George W. Rossetter, Jay C. McCord and Sidney H. Kahn, as the Sovereign Annex First Mortgage

Bondholders' Committee, constituted under Deposit Agreement dated January 23, 1931, representing the holders of certain of the Sovereign Annex 6½% First Mortgage Gold Bonds dated August 1, 1922, and as The Sovereign First Mortgage Bondholders' Committee, constituted under Deposit Agreement dated April 21, 1931, representing the holders of certain of the 6% First Mortgage Gold Bonds dated November 1, 1919, represent and show unto the court:

90 1. That they constitute and are acting as members of two Committees, namely:

(a) The Sovereign Annex First Mortgage Bondholders' Committee, constituted under and by virtue of a Deposit Agreement dated January 23, 1931, between your petitioners as the original members and as the duly constituted successors of the original members of such Committee and persons depositing bonds thereunder; and

(b) The Sovereign First Mortgage Bondholders' Committee, constituted under and by virtue of a Deposit Agreement dated April 21, 1931, between your petitioners as the original members and as the duly constituted successors of the original members of such Committee and persons depositing bonds thereunder;

that as is represented in the creditors' petition filed in the above entitled cause, the property and premises owned by the debtor herein is improved with two separate buildings designated as "The Sovereign" and as the "Sovereign Annex"; that the property described as "The Sovereign" is subject to the lien of a first mortgage trust deed dated November 1, 1919, securing an issue of first mortgage bonds in the original principal sum of $1,000,000.00, of which said original principal amount and the coupons appertaining thereto, there is outstanding and unpaid as of this date unsubordinated bonds in the principal sum of $575,000.00, and subordinated bonds and coupons in the aggregate sum of $173,926.49; that said property described as "Sovereign Annex" is subject to the lien of a first mortgage trust deed dated August 1, 1922, securing an issue of first mortgage bonds in the original principal sum of $1,000,000.00.

91 of which said principal amount and the coupons appertaining thereto there is outstanding and unpaid as of this date unsubordinated bonds in the principal sum of $798,000.00 and subordinated coupons in the aggregated sum of $131,954.76.

2. That upon the happening of the respective defaults under the aforesaid Trust Deeds, your petitioners called for

the deposit of first mortgage bonds under and pursuant to the respective Deposit Agreements hereinbefore described, and your petitioners are representing the holders of such bonds secured by the respective Indentures aforesaid who have deposited or who may deposit their bonds with the Depositary of your petitioners; that the copy of the Deposit Agreement relating to the "Sovereign", attached to the creditors' petition as Exhibit "B", is a true and correct copy of the Deposit Agreement under which your petitioners are acting as The Sovereign First Mortgage Bondholders' Committee; that a copy of the Deposit Agreement under which your petitioners are acting as the Sovereign Annex First Mortgage Bondholders' Committee is attached hereto marked Exhibit "A" and your petitioners pray leave to refer to said Deposit Agreements with like effect as though the same were set forth in full herein.

3. That on February 4, 1935, J. Gold, R. Sandroff and S. Isenberg filed their creditors' petition under Section 77B of the Act of Congress relating to bankruptcy praying for the reorganization of the debtor herein and on February 13, 1935, said debtor filed its answer to said petition admitting substantially all of the allegations made in said creditors' petition and praying for an opportunity to reorganize; that on February 13, 1935 an order was entered approving
92 said creditors' petition as being properly filed, granting leave to these petitioners to intervene and file this, their petition, within ten (10) days.

4. That as is alleged in said creditors' petition, the lien of said "Sovereign" First Mortgage Trust Deed is being foreclosed in the Circuit Court of Cook County in a cause therein docketed as case No. B-219230 and the lien of said "Sovereign Annex" First Mortgage Trust Deed is being foreclosed in a cause known and docketed in the Circuit Court of Cook County as case No. B-218773; that although decrees of foreclosure have been entered in said respective causes aforesaid, no steps have been taken for the enforcement of said decrees by sale or otherwise.

5. That under date of February 3, 1933, your petitioners, as said "Sovereign" First Mortgage Bondholders' Committee and said "Sovereign Annex" First Mortgage Bondholders' Committee, formulated and adopted a joint plan of reorganization, the scope of which said plan included the financial structures of the two separate units known and designated as aforesaid, it being intended, contemplated and

designed that under said plan the two properties would be operated together.

6. That on, to-wit, July 13, 1933, your petitioners, as such Committees as aforesaid, mailed to all holders of said Sovereign and Sovereign Annex First Mortgage Bonds, to the extent that the names and addresses of such holders were known, a notice of the adoption of said plan of reorganization; that the notice referred to in Paragraph 12 of said
93 creditors' petition and attached thereto marked Exhibit "F" is a copy of the notice prepared and mailed under the supervision and direction of these Committees, and your petitioners pray leave to refer to said Exhibit "F" for a summary of the description of the indentures of mortgage hereinbefore referred to, the description of the property, the financial position of the property and the general financial condition of the operations of said property as of July 13, 1933, and the summary of the details of said plan of reorganization as though the same were incorporated herein at length.

7. That since the aforesaid communication to the bondholders, your petitioners, as such Committees, as aforesaid, did, under date of April 23, 1934, mail an additional general communication to said bondholders, a copy of which is hereto attached marked Exhibit "B" and by reference made a part hereof as though the same were incorporated herein at length.

8. That as of February 13, 1935, there was on deposit with American National Bank and Trust Company of Chicago, as Depositary under said respective Deposit Agreements aforesaid, bonds in the aggregate principal sum of $543,600.00 or 94.5% of the principal amount of all of the outstanding, unsubordinated and unpaid first mortgage bonds of said "Sovereign" issue and bonds in the aggregate principal sum of $764,00.00 or 95.7% of the principal amount of all of the outstanding, unsubordinated and unpaid first mortgage bonds of said "Sovereign Annex" issue; that all of said deposits represent bondholders who have assented and approved said plan of reorganization dated February 3, 1933; that your petitioners, pursuant to the terms of
94 said Deposit Agreements, are vested with full, legal and equitable title to the bonds deposited with them and are the owners and holders thereof.

9. That on February 26, 1935, said Plan of Reorganization was amended in certain respects and that as so amended

said agreement constitutes a plan of reorganization of said Kenmore-Granville Hotel Company, a corporation, the owner of the "Sovereign" and "Sovereign Annex" properties, hereinafter called the "plan", within the meaning of Section 77B of the Bankruptcy Act, as amended, a copy of which plan, marked Exhibit "C", is attached hereto and by reference made a part hereof as though the same were fully set forth herein.

10. That in addition to the indebtedness of said Debtor, as hereinbefore set forth in Paragraph 1 hereof, said Debtor is also indebted to Nomis Suarts Corporation in the approximate amount of $73,371.45, and for general property taxes as follows:

1929—Bal. $13,856.02; 1930—Bal. $18,121.34; 1931—$33,362.70; 1932—Bal. $24,777.43; 1933—1st inst. $10,276.86, 2nd inst. $10,075.35; 1934 (Estimated) $19,200.00, or in the aggregate the approximate sum of $129,669.70

and that therefore your petitioners, as the owners and holders of said deposited bonds are creditors of the said debtor holding not less than 25% in amount of claims that will be affected by said plan of reorganization and holding not less than 10% in amount of all claims against said debtor.

11. That in the opinion of your petitioners the aforesaid plan is fair to all interests involved, is reasonable and equitable and does not discriminate unfairly in favor of any class of stockholders or creditors, is feasible and complies with the provisions of subsection (b) of Section 77B of the Act aforesaid, and all of the other relevant provisions of said
95 Section 77B.

12. That your petitioners desire to submit the aforesaid plan as a plan of reorganization within the meaning and purview of Sections 77A and 77B of the Bankruptcy Act and acts and sections amendatory thereof and supplemental thereto; that said plan has been approved by the debtor herein as and for a plan of reorganization within the meaning and purview of the aforesaid sections.

13. That the depositors and holders of said bonds are widely scattered geographically, and in the opinion of your petitioners it will cause unnecessary expense, confusion and delay if the depositors of bonds under the plan are requested to execute further acceptance of the plan in writing, after having approved the plan of reorganization at the time the same was submitted as hereinbefore set forth, and the amendments thereto being immaterial and not adversely af-

fecting any creditor or stockholder affected by the plan; that therefore your petitioners, as a Committee as aforesaid, desire to be permitted to accept the aforesaid plan in writing on behalf of those bondholders who have already deposited their bonds with the Depositary of your petitioners and evidenced their acceptance of said plan of reorganization.

14. That for the purpose of completing the said plan of reorganization it is necessary that the creditors and stockholders of the debtor be divided into classes according to the nature of their respective claims and interests; that your petitioners respectfully recommend that the creditors and stockholders of the debtor, for the purpose of the plan of reorganization and the acceptance thereof as aforesaid,
96 be divided into the following classes according to the nature of their respective claims and interests;

Class A:

(1) Melvin L. Straus, as Trustee under that certain Trust Deed and Chattel Mortgage dated November 1, 1919 and recorded in the office of the Recorder of Deeds of Cook County, Illinois, as Document No. 6699724, for the benefit of himself and his attorneys for services rendered in the foreclosure proceedings case No. B-219230, as allowed by the foreclosure decree, together with court costs and Master's fees allowed by said decree; Samuel J. T. Straus, as Trustee under that certain Trust Deed and Chattel Mortgage dated August 1, 1922 and recorded in the office of the Recorder of Deeds of Cook County, Illinois, as Document No. 7717203, for the benefit of himself and his attorneys for services rendered in the foreclosure proceedings case No. B-218773, as allowed by the foreclosure decree, together with court costs and Master's fees allowed by said decree.

(2) Holders of unsubordinated, outstanding and unpaid first mortgage bonds and interest coupons secured by the Trust Deed and Chattel Mortgage to Melvin L. Straus, as Trustee, dated November 1, 1919 and recorded as Document No. 6699724 as aforesaid; holders of unsubordinated, outstanding and unpaid first mortgage bonds and interest coupons secured by the Trust Deed and Chattel Mortgage to Samuel J. T. Straus, as Trustee, dated August 1, 1922 and recorded as Document No. 7717203 as aforesaid.

Class B:

Holders of subordinated first mortgage bonds and interest coupons secured by the Trust Deed and Chattel Mortgage

recorded as Document No. 6699724 as aforesaid; holders of subordinated first mortgage bonds and interest coupons secured by the Trust Deed and Chattel Mortgage recorded as Document No. 7717203 as aforesaid.

Class C:

General Creditors.

Class D:

Holders of the Common Stock of the Debtor; that an order be entered herein fixing the manner and time within which claims of creditors and stockholders may be filed, including provisions for the filing of claims by Melvin L. Straus and Samuel J. T. Straus, as Trustees under the respective Trust Deeds aforesaid securing the first mortgage bonds, and including the filing of claims by the Committees representing the holders of first mortgage bonds secured by said respective Trust Deeds aforesaid, and that a date be set for a hearing on the confirmation of the plan of reorganization herein proposed and upon objections, if any, that may be filed thereto in accordance with any order entered in this proceeding.

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Wherefore, your petitioners pray for the entry of an order herein:

(1) Permitting your petitioners to file the plan of reorganization herein as and for a plan of reorganization pursuant to the provisions of Section 77B of the Act of Congress relating to Bankruptcy;

(2) Fixing the time of hearing for the consideration of said plan of reorganization and its confirmation and the manner of giving notice of such hearing;

(3) Providing that your petitioners may accept said plan of reorganization on behalf of the holders of bonds to whom said plan has already been submitted and who have approved of said plan and deposited their bonds, and on behalf of such bondholders as may hereafter deposit their bonds and approve of said plan of reorganization, and providing that the debtor may accept said plan of reorganization on behalf of the stockholders to whom said plan has already been submitted and who have approved of said plan;

(4) Fixing the time within which bondholders who have not deposited their bonds with your petitioners, or stockholders who have not approved of said plan, may file objections to said plan of reorganization;

98

(5) Dividing the creditors and stockholders of the debtor into classes for the purpose of the plan of reorganization presented in these proceedings, and the acceptance thereof as aforesaid;

(6) Fixing the manner and time within which the claims of creditors and stockholders may be filed and allowed and appointing a Depositary to accept bonds and interest coupons filed in accordance with such claims;

(7) Providing for such other and further relief as may be proper.

And your petitioners will ever pray.

GEORGE W. ROSSETTER, JAY C. McCORD AND SIDNEY H. KAHN, AS THE SOVEREIGN ANNEX FIRST MORTGAGE BONDHOLDERS' COMMITTEE AND THE SOVEREIGN FIRST MORTGAGE BONDHOLDERS' COMMITTEE,
By JAY C. McCORD.

GOTTLIEB & SCHWARTZ,
SONNENSCHEIN, BERKSON, LAUTMANN, LEVINSON & MORSE,
JUDAH, REICHMANN, TRUMBULL, COX & STERN,
Attorneys for Petitioners.

State of Illinois, } ss.
County of Cook, }

JAY C. McCORD, being first duly sworn, on oath deposes and says that he is a member of the Sovereign Annex and The Sovereign First Mortgage Bondholders' Committee, constituted under the respective Deposit Agreements in said petition described, the petitioners above named; that he has read the above and foregoing petition by him subscribed on behalf of such petitioners and knows the contents thereof and that the same is true in substance and in fact.

JAY C. McCORD.

Subscribed and sworn to before me, this 26th day of Feb., 1935.

JENNIE T. JOHNSON,
Notary Public.

(Seal)

99-115 * * Exhibit A. * *

(Omitted pursuant to stipulation filed April 16, 1935.)

116 EXHIBIT "B".

(Letterhead of The Sovereign and Sovereign Annex, Chicago, Illinois.)

April 23, 1934.

To Holders of the 6% First Mortgage Gold Bonds of Albert Hotel & Building Corporation, Dated November 1, 1919, and the 6½% First Mortgage Gold Bonds of Sovereign Hotel Corporation, Dated August 1, 1922, and/or Certificates of Deposit Issued Therefor:

On July 13, 1933, a Notice of Plan of Reorganization of the financial structure of the Sovereign and Sovereign Annex was sent to the above described bondholders. In order to keep you informed of developments since that time, the Committees are addressing this communication to you.

You will recall that the plan of reorganization contemplated that the depositing bondholders' proportionate share of the net proceeds derived from the operations of the property by the Trustees and the net proceeds of any first mortgage loan, if obtained, would be used to defray cash payments required to be made on account of the expenses of foreclosure and reorganization and taxes. As will be noted from the cash receipts and disbursements statement on the reverse side hereof substantial payments have been made on account of taxes and since first mortgage financing has not been obtained, the funds remaining in the hands of the Trustees have been insufficient to consummate the foreclosure proceedings. Accordingly, the final consummation of the plan of reorganization has been unavoidably delayed.

Pending the completion of the plan of reorganization, the Committee has obtained reports of operations of the property as prepared by Horwath and Horwath, accountants and auditors, in order to provide you with information relative to the earnings. The reports show that during February 1934, the property had an average occupancy of 67.25% as compared with an average occupancy of 65.82% during January, 1934 and 71.53% during the year 1933. On the reverse side hereof are presented statements of income and expense, computed on an accrual basis, for the year ended December 31, 1933, and for the months of January and February 1934. Since accrual statements do not show actual cash transactions during the respective periods, there is also presented

a summary of cash receipts and disbursements which shows the amount of cash on hand as of February 28, 1934. As indicated, considerable payments have been made on account of taxes and the following is the present status of unpaid taxes against the property (since accrued penalties are estimated, the following figures should be considered as approximations only):

Year	Payments on Account	Balance due including Accrued Penalties
1929	$18,868.93	$13,551.95
1930	10,103.86	18,348.02
Objection sustained	714.75	
1931—1st half	None	17,097.43
1931—2nd half	None	16,189.61
1932—1st half	None	11,945.20
Total (approximately)		$77,132.21

The 1932 taxes amounting to $23,653.88 were only recently billed and the first installment of same was payable on April 15, 1934. The 1933 taxes which have not as yet been billed are estimated at approximately $21,500.00.

Since a large amount of taxes still remains unpaid, it appears likely that from the net proceeds of operations of the property further applications toward the reduction of such taxes will be necessary. In view of continued unfavorable earnings of the property, it appears that unless first mortgage financing can be obtained funds sufficient to consummate the foreclosure proceedings will not be available for some time and the plan of reorganization consequently will be delayed.

Efforts towards improving the operations of the property and obtaining the necessary funds will be continued and bondholders will be notified when the Plan has been consummated.

Yours very truly,

M. A. ROSENTHAL,

Secretary of the Committees.

The Sovereign and Sovereign Annex

Statements of Income and Expense

(Computed on Accrual Basis)

Taken from the Trustees' reports of operations of the property as prepared by Horwath and Horwath, account and auditors

		January and February 1934		Year ended Dec. 31, 1933
Income:				
Rooms—Gross	$25,467.74		$198,938.22	
Less: Rooms Expense	9,857.80		52,793.42	
		$15,609.94		$146,144.80
Catering and Other Departments—Gross	$16,047.73		$106,451.66	
Less: Catering and Other Dept. Expense	14,791.77		95,792.91	
		1,255.96		10,658.75
Gross Operating Income		$16,865.90		$156,803.55
Unapportioned Expenses:				
Administration	$ 4,976.77		$ 30,179.72	
Advertising and Promotion	2,352.13		17,295.22	
Engine Room (Heat, Light and Power)	7,115.57		39,480.76	
Landscape and Grounds	.....		46.94	
Maintenance	2,792.10		29,386.83	
Reserve for Doubtful Accounts	800.00		5,450.00	
Insurance	748.78		4,226.35	
Total Unapportioned Expenses		18,785.35		126,065.82
Operating Profit or Loss		($1,919.45)D		$ 30,737.73
Estimated Taxes for the Period		3,500.00		21,500.00

D—*Deficit.*

SUMMARY OF CASH RECEIPTS AND DISBURSEMENTS

	January and February 1934	Year Ended Dec. 31, 1933
Cash on Hand at Beginning of Period	$10,151.77	$ 10,642.49
Cash Receipts During Period	42,151.35	332,019.43
	$52,303.12	$342,661.92
Cash Disbursements During Period	48,807.36	332,510.15*
Cash on Hand at End of Period	$ 3,495.76	$ 10,151.77

*Includes payments totaling $21,019.79 made on account of 1929 and 1930 taxes.

117 Amendment to Plan of Reorganization
of
The Sovereign and Sovereign Annex.

This Agreement made and entered into this 26 day of February, 1935, by and between

George W. Rossetter
Jay C. McCord and
Sidney H. Kahn,

constituting The Sovereign First Mortgage Bondholders' Committee under Deposit Agreement dated April 21, 1931, first party; and

George W. Rossetter
Jay C. McCord and
Sidney H. Kahn,

constituting the Sovereign Annex First Mortgage Bondholders' Committee under Deposit Agreement dated January 23, 1931, second party (which said Committees are hereinafter sometimes referred to as the "Committees"); and

Kenmore-Granville Hotel Company,

an Illinois corporation, third party (hereinafter sometimes referred to as the "Owner"); and

S. W. Assets Liquidation Corporation,

a Delaware corporation, fourth party,

Witnesseth:

The Committees heretofore under date of February 3, 1933, jointly entered into a Plan of Reorganization of The Sovereign and the Sovereign Annex, reference to which said Plan of Reorganization is hereby made for a specific description of the properties therein referred to, the issues of first mortgage bonds affected by the Plan and the terms and conditions of the reorganization of the financial structure of the respective properties. Said plan of Reorganization was on or about July 13, 1933 submitted to The Sovereign and the Sovereign Annex First Mortgage Bondholders and has been approved by the holders of approximately 94% of the outstanding first mortgage bonds of The Sovereign and the holders of approximately 95% of the outstanding first mortgage bonds of the Sovereign Annex. Thomas D. Nash, County Treasurer and Ex-Officio County Collector of Cook County, Illinois, was on or about August 14, 1934 appointed Tax

Receiver of both The Sovereign and the Sovereign An-
118 nex properties and possession of said properties was on or about said date surrendered by the respective Trustees under the Trust Indentures to said Tax Receiver; that Robert M. Sweitzer, as the County Treasurer and Ex-Officio County Collector of Cook County, is presently in possession of said properties as Tax Receiver. The interest of S. W. Straus & Co., referred to in said Plan of Reorganization and as hereinafter more specifically described, has been acquired by S. W. Assets Liquidation Corporation. Title to the Sovereign and Sovereign Annex properties is in the owner who has assumed and agreed to pay the bonded indebtedness secured by the respective First Mortgage Trust Indentures. An involuntary petition was heretofore filed on February 4, 1935 in the District Court of the United States, for the Northern District of Illinois, Eastern Division, asking for the reorganization of the Owner under Section 77B of the Bankruptcy Act, as amended, and said Owner has filed an answer to said proceedings indicating its desire for a reorganization, pursuant to the provisions of said Plan of Reorganization or such amendments or modifications thereof as may be made and accepted by the parties in interest, subject to the approval of said District Court. Said petition has been approved as properly filed under Section 77B of said Bankruptcy Act. The parties hereto desire to ratify, approve and confirm the Plan of Reorganization dated February 3, 1933, except as hereinafter specifically modified, amended and supplemented, so that said Plan of Reorganization, as hereinafter amended, modified and supplemented, will in all respects conform to the provisions of Section 77B of the Bankruptcy Act as amended, and shall constitute a Plan of Reorganization within the meaning and purview of said Section 77B of the Bankruptcy Act.

Now, Therefore, in consideration of the premises, it is agreed by and between the parties as follows:

1. That the parties hereto, who were not parties to the Plan of Reorganization dated February 3, 1933, do hereby ratify, approve and confirm said Plan dated February 3, 1933, in all respects, except as herein amended, modified and supplemented, and the execution of this agreement by said parties shall be deemed and considered to constitute them parties to said Plan dated February 3, 1933, which Plan is hereby incorporated by reference in this agreement as if fully set forth herein.

2. That said Plan of Reorganization dated February 3, 1933 is hereby amended, modified and supplemented as follows:

3. Paragraph 2 of said Plan of Reorganization is hereby amended to read as follows:

"At a time to be determined by the Committees, subject to the approval of said District Court, a referendum shall be conducted of said first mortgage bondholders of both issues to determine whether they desire to have the stock of the new corporation, to be issued for their benefit, deposited under a trust agreement, and in the event 51% or more in amount of said first mortgage bondholders vote against the crea-
119 tion of a trust, then the stock of the new corporation shall be issued directly to the parties hereinafter in this paragraph named in proportion to their respective interests, as hereinafter defined; otherwise, all of the common stock of the new corporation to be outstanding shall be issued to three (3) trustees (hereinafter referred to as the "Trustees") to be selected by the Committees, subject to the approval of the court. Trust certificates representing 90% of the common stock of the new corporation shall then be issued to the holders of unsubordinated first mortgage bonds. Each holder of an unsubordinated bond or bonds of Sovereign issue shall receive a trust certificate representing 1¼ shares of stock for each $100.00 in face amount of bonds held by him and a proportionate certificate for other amounts. Each holder of an unsubordinated bond or bonds of the Sovereign Annex issue shall receive a trust certificate representing 1 share of stock for each $100.00 in fact amount of bonds held by him and proportionate certificates for other amounts. Trust certificates representing 7½% of the common stock of the new corporation shall be issued to S. W. Assets Liquidation Corporation in payment of subordinated and unsubordinated advances made by S. W. Straus & Co. amounting in the aggregate to approximately $322,441.25 on account of bonds and/or coupons of The Sovereign and Sovereign Annex bond issues (S. W. Assets Liquidation Corporation having acquired the interest of S. W. Straus & Co. in such subordinated and unsubordinated advances). Trust certificates representing 2½% of the common stock of the new corporation shall be issued to Nomis-Suarts Corporation, which corporation owns all of the capital stock of the Owner in consideration of said Nomis-Suarts Corporation causing the Owner to make the title to the properties available for the

purpose hereof as aforesaid and the cancellation of the indebtedness of the Owner to said Nomis-Suarts Corporation in the amount of approximately $73,371.45."

4. Paragraph 3 of said Plan of Reorganization is hereby amended to read as follows:

"The Committee shall designate the agent of the Trustees, subject to the approval of the court, and the agent shall be entitled to compensation for the performance of its duties not to exceed the usual charges by banks and trust companies in Chicago for such services. The trust agreement providing for the appointment of Trustees and the issuance of trust certificates shall endure for a period of ten years, subject to termination in the manner herein described. Within 120 sixty days prior to the expiration of two years from the date of such agreement, the Trustees shall call a meeting of all trust certificates holders, or in lieu of such meeting, the Trustees shall conduct a referendum by mail of all trust certificate holders for the purpose of determining the wishes of the certificate holders as to the termination of the trust. In the event that a majority in amount of the holders of the trust certificates vote in favor of the termination of the trust, eiher in person or by proxy, at such meeting or through such referendum, then and in such case, the trust shall be dissolved as of the expiration of said two-year period and the stock of the new corporation shall be issued pro rata to the then holders of the trust certificates. If the holders of a majority in amount of trust certificates do not vote in favor of the termination of the trust, then the trust shall continue. In such case, prior to the expiration of the succeeding two-year period, a similar meeting or referendum shall be held to determine whether the trust shall be terminated as of the expiration of the second two-year period. Similar meetings or referenda shall be held prior to the expiration of each two-year period to determine whether the trust shall be terminated. In any event, the trust shall terminate at the expiration of the original ten-year period. The trust may be terminated at any time by a majority of the Trustees without any action by the holders of the trust certificates.

"The Trust Agreement shall provide that the holder of a trust certificate may be permitted to withdraw from the trust the proportionate share or shares of stock held by the Trustees under the Trust Agreement represented by his certificate, upon surrender of his said trust certificate to the Trustees, and the payment by said certificate holder of a reason-

able transfer fee and any stamp tax required by law to be paid in connection with such transfer.

"Any holder of trust certificates shall have the right, at any reasonable business hour, to inspect the corporate records and books of account of the new corporation.

"The Trustees shall be entitled to be recompensed for their expenses and shall receive reasonable compensation for their services, which shall not exceed in the aggregate 1% of the annual gross income derived from the rental of rooms in the property. The trust agreement shall be in such form as shall be satisfactory to the Committee and be approved by the court and shall provide that the Trustees report to the certificate holders annually or oftener. The fees and expenses of the Trustees and of the agent of the Trustees shall be paid by the new corporation. No salaries shall be allowed or paid to officers or directors of the new corporation as such so long as the trust agreement remains in effect.

121

The surviving Trustees shall have the right to fill any vacancy among the Trustees, to remove their agent and to appoint a successor agent. The trust agreement shall provide that any of the Trustees may be removed and a successor Trustee appointed at any time upon the written direction of the holders of a majority in amount of the trust certificates."

5. Paragraph 5 of the Plan of Reorganization is hereby amended by eliminating the first six sentences thereof and by inserting in lieu thereof the following:

"The new corporation shall acquire title to the mortgaged properties above described to the end that at the completion of the reorganization the title in the new corporation shall be free and clear of all liens and encumbrances whatsoever, except leases, if any, then existing, and real estate and other taxes, if any. The new corporation shall assume and agree to pay the reorganization expenses hereinafter referred to and these expenses shall be paid either out of funds available at the time of the completion of the reorganization, being funds, if any, accumulated out of the net income from the properties during the time that the Trustees under the respective indentures were in possession of said properties and additional funds, if any, accumulated by any bankruptcy trustee or debtor in possession or otherwise from the operation of the properties, or out of subsequent income derived by the new corporation, or out of the proceeds of any new first mortgage as hereinafter provided.

"Subject to the approval of the court, allowance shall be made to cover the following:

(a) Compensation to members of the Committees;

(b) Reimbursement to the Committees for the amount to be paid by them to Securities Service Corporation for secretarial and other services rendered and to be rendered to the Committees, plus out-of-pocket expenses;

(c) Charge of Depositary for the Committees, plus out of pocket expenses;

(d) Compensaton of counsel for the Committees;

(e) Compensation of counsel for the Corporation;

(f) Compensation of counsel for the petitioning creditors.

"In addition, the new corporation shall assume the expenses and charges in the foreclosure proceedings, including the Trustee's fees, unpaid balance of fees allowed to counsel for the Trustees, and unpaid balance of Master's fees. There shall also be allowed and paid the actual expenses to be incurred in connection with the organization of the new corporation, printing the new Trust Agreement and the new securities, stamps taxes, title guaranty expense, court costs in the bankruptcy proceeding, and other similar charges."

122 6. Paragraph 7 of said Plan of Reorganization shall be deleted and in lieu thereof there shall be substituted the following:

"The new corporation shall take title to the property subject to unpaid general taxes and assessments. The Plan of Reorganization shall not affect any persons, firms or corporations having claims against the debtor, the mortgage trustee or the bankruptcy trustee for materials and supplies furnished to the properties and which remain unpaid at the time of the consummation of the reorganization or for accrued and unpaid payroll in connection with the operation of the properties. All such claims shall be expressly assumed by the new corporation."

7. Paragraph 8 of said Plan of Reorganization shall be amended to read as follows:

"The management of the properties shall be subject to the supervision of the Trustees in the event a trust is created as hereinbefore provided. In the event that a trust is not created, the management of the properties shall be determined by the Board of Directors of the new corporation."

8. Paragraph 9 of the Plan of Reorganization shall be amended by deleting therefrom the second sentence.

9. There shall be added to the Plan of Reorganization the following:

"Unless all of the persons having any right, title, interest, lien or claim in or to the above mentioned properties consent to and approve of the Plan of Reorganization or accept the new securities hereinabove provided for, it is distinctly understood and agreed that the approval of the Plan of Reorganization by the first mortgage bondholders and other parties hereto, consenting thereto, and/or the acceptance by the first mortgage bondholders and other parties hereto of the new securities hereinabove provided for, are expressly conditional upon the entry of a valid order or decree confirming or approving the Plan of Reorganization, binding, upon direct or collateral attack, upon all persons who have any right, title, interest, lien or claim in or to the above mentioned properties, whether or not such persons consented to said Plan of Reorganization or whether or not they accepted any benefit thereunder. If for any reason the order or decree hereinabove referred to shall be reversed, set aside or held void or invalid, all of the bondholders and other parties hereto consenting to the Plan of Reorganization or taking any benefit thereunder shall be restored to their former right, title, lien or claim in and to said properties as such right, title, lien or claim existed prior to the entry of such or-
123 der or decree; provided, however, that the reversal, setting aside or invalidity of such order or decree shall not prohibit the parties to the reorganization plan dated February 3, 1933 from consummating said Plan of Reorganization through the foreclosure proceedings originally contemplated."

10. Exhibit "A" attached to said Plan of Reorganization shall be deleted.

11. The plan of Reorganization dated February 3, 1933 and this amendment shall be construed together as the Plan of Reorganization and shall constitute a Plan of Reorganization of the Owner within the meaning of Section 77B of the Bankruptcy Act as amended, and all statements and provisions contained in the preamble or any part of the original Plan which are inconsistent with the preamble and provisions hereof are deemed to be superseded. Except as hereby expressly modified and superseded, said agreement of February 3, 1933, shall remain in full force and effect.

In Witness Whereof, the parties hereto have caused this agreement to be executed the day and year first hereinabove set forth.

THE SOVEREIGN FIRST MORTGAGE BONDHOLDERS' COMMITTEE,
By JAY C. MCCORD.
SOVEREIGN ANNEX FIRST MORTGAGE BONDHOLDERS' COMMITTEE,
By JAY C. MCCORD.
S. W. ASSETS LIQUIDATION CORPORATION,
By HOMER H. COOPER,
Its Vice President.

(Seal)

Attest:
CLIFFORD C. PRATT,
Secretary.

KENMORE-GRANVILLE HOTEL COMPANY,
By EDWARD R. REINSIMER,
Its President.

(Seal)

Attest:
C. J. BECK,
Secretary.

124 And on, to wit, the 6th day of March, 1935 came the Petitioning Creditors by their attorneys and filed in the Clerk's office of said Court a certain Motion to Strike in words and figures following, to wit: Filed Mar 1935.

125 IN THE DISTRICT COURT OF THE UNITED STATES.
* * (Caption—58701) * *

MOTION OF PETITIONING CREDITORS TO STRIKE THE PETITION OF NETTIE MEYER.

And now come J. Gold, et al., the petitioning creditors herein, and move to strike the petition of Nettie Meyer, heretofore filed herein, and assign the following grounds for this motion:

1. That said petition of Nettie Meyer purports to set forth a cause of action against the underwriters and vendors of the first mortgage bonds issued against debtor's property for damages by reason of alleged fraudulent representations

made in the sale of said bonds, or otherwise, and said Meyer's petition is not relevant to the issues herein.

2. That said petition does not set up any grounds for relief against the debtor corporation, or its property, other or different than the relief to which other first mortgage bondholders are entitled.

126 3. That irrespective of the merits of said Meyer's petition, the petitioning creditors are entitled to the relief prayed for herein for a reorganization under Section 77-(b) of the Bankruptcy Act as amended.

4. That the allegations of paragraph I of said Meyer's petition are vague, general, and indefinite, and constitute conclusions of law and fact not founded on any allegations contained in said petition.

5. That the allegation of collusion appearing in the last paragraph of said Meyer's petition is vague, general, and indefinite; that said allegation is a conclusion not founded on any statement contained in said petition and is scandalous and impertinent.

6. That the original petition herein filed by petitioning creditors was filed prior to the suit of said Nettie Meyer in the Superior Court as Case No. 35-S-2153; and said Superior Court proceeding, in so far as it purports to raise issues, if any, which are raised in this proceeding, is improper by reason of the prior proceeding herein; and that said Superior Court proceeding, in so far as it relates to the issues herein, is, therefore, properly restrained and enjoined.

7. That said Nettie Meyer's petition purports to attack by a separate and collateral proceeding, decrees entered by the Circuit Court in proceedings to foreclose said Sovereign and Sovereign Annex mortgages; that such collateral attack upon said decrees is improper herein.

8. That said Meyer's petition does not raise any is-
127 sue as to the rights of petitioning creditors herein and other bondholders to participate in a reorganization plan, nor does said Meyer's petition question the fairness of any reorganization plan herein proposed; that, on the contrary thereof, said Meyer's petition affirmatively shows the necessity for the consummation of such a fair and equitable reorganization plan and that such purpose can be best accomplished in a proceeding herein.

9. That said petition of Nettie Meyer affirmatively discloses that she is guilty of laches and is not entitled to any

relief to prevent the carrying out of a fair and equitable reorganization plan.

10. The prayers for relief contained in said Meyer's petition are not warranted by the allegations of said petition.

11. That said Meyer's petition affirmatively shows that the debtor corporation was organized long before the commencement of said Meyer's suit in the Superior Court, and long before the passage of Section 77-(b) of the Bankruptcy Act as amended; also that said debtor corporation is seized of the title to the property described in the petition of the petitioning creditors herein, and that said debtor's property is subject to the outstanding bond issue mortgages described in said creditor's petition; and that the petitioning creditors are, therefore, entitled to the relief prayed for by their said petition heretofore filed and approved.

Wherefore, these respondents pray that said petition of Nettie Meyer be dismissed.

J. GOLD,
R. SANDROFF, and
S. ISENBERG,
Petitioning Creditors.
By I. H. FLAMM.
TARNOPOL, FLAMM & SIDEMAN,
Attorneys for said Petitioning Creditors.

And on, to wit, the 7th day of March, 1935 came the Debtor by its attorneys and filed in the Clerk's office of said Court a certain Motion in words and figures following, to wit: Filed Mar. 1935.

128 IN THE DISTRICT COURT OF THE UNITED STATES.

* * (Caption—58701) * *

MOTION OF KENMORE-GRANVILLE HOTEL COMPANY, THE DEBTOR HEREIN, TO DISMISS THE INTERVENING PETITION OF NETTIE MEYER HERETOFORE FILED HEREIN ON FEBRUARY 25, 1935.

And now comes Kenmore-Granville Hotel Company, the Debtor herein, a respondent to the intervening petition of Nettie Meyer, heretofore filed herein on February 25, 1935, and moves the court to dismiss the said intervening petition,

because said intervening petition does not comply with the provisions of subdivision (a) of Section 77B of the Bankruptcy Act as amended and fails to state any matter of equity entitling said intervening petitioner to the relief prayed for.

And for further grounds in support of the motion of this respondent for the dismissal of said intervening petition, the respondent shows unto the court that on the face of said intervening petition it appears:

129 A. That attached to and made a part of said petition is a copy of a bill of complaint filed by said petitioner as the plaintiff in the Superior Court of Cook County in a cause known and docketed therein as "Nettie Meyer v. Kenmore Granville Hotel Company, et al., No. 35S 2153", the allegations of which said complaint are wholly foreign and unrelated to the relief sought to be obtained in the pending proceeding, for the reason that the issues tendered in said complaint do not controvert the facts alleged in the creditors' petition filed herein and the answer of the Debtor filed hereto upon the basis of which this court assumed exclusive jurisdiction of the Debtor and its property; that said intervening petition contains, among other controverted and unproved general conclusions of the petitioner:

1. General conclusions of alleged fraud and deceit directed against the underwriters of said bond issues, their officers, agents and directors.

2. General conclusions of alleged mismanagement and breach of fiduciary duties directed against the Trustees under the indentures of trust securing the said two bond issues on properties in Chicago, Illinois, known as The Sovereign, and The Sovereign Annex.

3. General conclusions in the nature of a collateral attack upon the validity and propriety of the decrees for fore-
130 closure and sale heretofore entered in the two foreclosure proceedings now pending in the Circuit Court of Cook County, Illinois numbered B-218773 and B-219230 respectively.

4. General conclusions of fraud directed against George W. Rossetter, Jay C. McCord and Sidney H. Kahn, as members of The Sovereign First Mortgage Bondholders' Committee, and of The Sovereign Annex First Mortgage Bondholders' Committee and their predecessors in connection with the solicitation of bonds for deposit under the Deposit Agreements constituted for the deposit of the First Mort-

gage Bonds of The Sovereign and of the First Mortgage Bonds of The Sovereign Annex.

B. That it appears on the face of the petition that said petitioner has heretofore deposited her bond or bonds with the Depositary under the Deposit Agreement for the deposit of the First Mortgage Bonds of said Sovereign Annex and that said depositor under the provisions of the Deposit Agreement for such bonds, the interests of said petitioner are now vested in the Bondholders' Committee.

C. That it appears from said petition that said petitioner, as the plaintiff in the cause pending in the Superior Court of Cook County, Illinois, numbered 34C 13891 is seeking to collaterally attack the validity of the order entered by the Circuit Court of Cook County appointing the County Treasurer and Ex-Officio County Collector of Cook County, Illinois, tax receiver of the properties in question.

131 D. That the intervening petition wholly fails to state ultimate facts showing or tending to show that exclusive and paramount jurisdiction of the Debtor and its property has not been vested in this court, or that the creditors' petition was improperly filed or filed in bad faith under the provisions of Section 77B of the Bankruptcy Act as amended or that any jurisdiction or reason exists in equity warranting the relief sought by the intervening petition, namely: the proceedings herein should be dismissed.

Wherefore, this respondent prays the judgment of this court whether the Debtor herein shall further answer the said intervening petition.

KENMORE-GRANVILLE HOTEL COMPANY,
By MAX FREDERICK GOLDBERG.

132 And on, to wit, the 7th day of March, 1935 came the Bondholders' Committee by its attorneys and filed in the Clerk's office of said Court a certain Motion in words and figures following, to wit:

133 IN THE DISTRICT COURT OF THE UNITED STATES.

* * (Caption—58701) * *

MOTION OF GEORGE W. ROSSETTER, JAY C. McCORD AND SIDNEY H. KAHN, JOINTLY AS THE SOVEREIGN ANNEX FIRST MORTGAGE BONDHOLDERS' COMMITTEE AND THE SOVEREIGN FIRST MORTGAGE BONDHOLDERS' COMMITTEE, TO DISMISS THE INTERVENING PETITION OF NETTIE MEYER HERETOFORE FILED HEREIN ON FEBRUARY 25, 1935.

And now come George W. Rossetter, Jay C. McCord and Sidney H. Kahn, as the Sovereign Annex First Mortgage Bondholders' Committee, constituted under Deposit Agreement dated January 23, 1931, representing the holders of certain of the Sovereign Annex 6% First Mortgage Gold Bonds dated August 1, 1922, and as The Sovereign First Mortgage Bondholders' Committee, constituted under Deposit Agreement dated April 21, 1931, representing the holders of certain of the 6% First Mortgage Gold Bonds dated November 1, 1919, respondents to the intervening petition of Nettie Meyer, heretofore filed herein on February 25, 1935, and move the court to dismiss the said intervening petition, because said intervening petition does not comply with the provisions of subdivision "A" of Section 77B of the Bankruptcy Act as amended and fails to state any matter of equity entitling said intervening petitioner to the relief prayed for.

134 And for further grounds in support of the motion of these respondents for the dismissal of said intervening petition, these respondents show unto the court that on the face of said intervening petition it appears:

A. That attached to and made a part of said petition is a copy of a bill of complaint filed by said petitioner as the plaintiff in the Superior Court of Cook County in a cause known and docketed therein as "Nettie Meyer v. Kenmore-Granville Hotel Company, et al., No. 35S2153", the allegations of which said complaint are wholly foreign and unrelated to the relief sought to be obtained in the pending proceeding, for the reason that the issues tendered in said complaint do not controvert the facts alleged in the creditors'

petition filed herein and the answer of the Debtor filed thereto upon the basis of which this court assumed exclusive jurisdiction of the Debtor and its property; that said intervening petition contains, among other controverted and unproved general conclusions of the petitioner:

1: General conclusions of alleged fraud and deceit directed against the underwriters of said bond issues, their officers, agents and directors.

2: General conclusions of alleged mismanagement and breach of fiduciary duties directed against the Trustees under the indentures of trust securing the said two bond issues.

3: General conclusions in the nature of a collateral attack upon the validity and propriety of the decrees for foreclosure and sale heretofore entered in the two foreclosure
135 proceedings now pending in the Circuit Court of Cook County, Illinois numbered B-218773 and B-219230 respectively.

4: General conclusions of fraud directed against these respondents and their predecessors in connection with the solicitation of bonds for deposit under the Deposit Agreements hereinbefore described.

B. That it appears on the face of the petition that said petitioner has heretofore deposited her bond or bonds with the Depositary under said Deposit Agreement and that as a depositor under the provisions of said Deposit Agreement the interests of said petitioner are now vested in these respondents.

C. That it appears from said petition that said petitioner, as the plaintiff in the cause pending in the Superior Court of Cook County, Illinois, numbered 34-C-13891 is seeking to collaterally attack the validity of the order entered by the Circuit Court of Cook County appointing the County Treasurer and Ex-Officio County Collector of Cook County, Illinois, tax receiver of the properties in question.

D. That the intervening petition wholly fails to state ultimate facts showing or tending to show that exclusive and paramount jurisdiction of the Debtor and its property has not been vested in this court, or that the creditors' petition was improperly filed or filed in bad faith under the provisions of Section 77B of the Bankruptcy Act as amended or that any justification or reason exists in equity warrant-
136 ing the relief sought by the intervening petition, namely: the proceedings herein should be dismissed.

Wherefore, these respondents pray the judgment of this

court whether they shall further answer the said intervening petition.

GEORGE W. ROSSETTER, JAY C. MCCORD AND SIDNEY H. KAHN, JOINTLY, AS THE SOVEREIGN ANNEX FIRST MORTGAGE BONDHOLDERS' COMMITTEE AND THE SOVEREIGN FIRST MORTGAGE BONDHOLDERS' COMMITTEE,
BY SONNENSCHEIN, BERKSON, LAUTMANN, LEVINSON & MORSE,
JUDAH, REICHMANN, TRUMBULL, COX & STERN.

AUSTIN M. COX,
Of Counsel.

Mar. 20, 5. 137 And afterwards, to wit, on the 20th day of March, 1935, being one of the days of the regular March term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable John P. Barnes, District Judge appears the following entry, to wit:

OPINION OF THE COURT.

138 IN THE DISTRICT COURT OF THE UNITED STATES.
* * (Caption—58701) * *

Chicago, Saturday, March 16, 1935, ten o'clock A. M.

Parties Met Pursuant to Adjournment.

Present:

Mr. Meyer Abrams, Mr. Francis S. Clamitz, Mr. Max Frederick Goldberg, Mr. H. E. Smoot, Mr. I. T. Zemans, Mr. Herbert M. Lautmann, Mr. Irving H. Flamm, appearing on behalf of their respective parties.

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139 The Court: (orally) Here is my view about situations, such as this:

Congress in passing 77B and 74 had the intent of devising speedy action for the reorganization of business and properties. Undoubtedly it had in mind such a situation as does

exist here in this Metropolitan District of Chicago, where hundreds of properties have been in receivership for long periods of years, where as a practical proposition it has been impossible to get them out of Court; Bondholders' Committees have been blamed, Attorneys have been blamed, Courts have been blamed because of the fact that these cases have been pending in Court for a period of three or four or five years when, as a matter of fact, these Bondholders' Committees and these lawyers and these Courts were powerless to get these cases out of Court. It is useless to tell the bondholder that they do not believe it, but it is true, the State Courts were utterly powerless to get these cases out of court. In the first place they could not get the money for the necessary expenses, assuming that they were reasonable, and if they were unreasonable they certainly could not get there. In the second place they could not get the money to pay the non-depositing bondholders; the non-depositing bondholders knew it and stood out. It was utterly impossible to get them to believe you regardless of what you said about it. Con-
140 gress undoubtedly knew it when they passed 77B and 74, and they passed 77B and 74 in order to relieve that situation, and 77B and 74 can relieve that situation if properly construed and properly applied.

Now, if any bondholder or a group of bondholders or all of the bondholders have a cause of action against S. W. Straus & Company I have no intention of destroying that cause of action. What that cause of action may be worth today I have very grave doubt, and have very grave doubt whether it is worth spending very much time on it, but that is no part of my duties to determine whether it has value or not. I have no intention to destroy it. What I have said I said because, as I understand it, Straus & Company are in bankruptcy.

If any bondholder, or a group of bondholders or all of the bondholders have a cause of action against the Trustees under these mortgages I do not want to destroy that, or, if any bondholder or a group of bondholders or all of the bondholders have a cause of action against the Bondholders' Committee I do not want to destroy this action. The matter I conceive to be of the greatest and paramount importance to the bondholders is to get this property out of court and the keeping of it out of Court.

Here is property that has been in default for about ten years, that is what you told me. Yet, it is proposed that I

should hand it back to a Court where it cannot be gotten out of the Court in less than five years, if it can then. Now,
141 that I cannot do. I am not going to do it unless I have to. I don't think I have to. I don't think the law requires me to. I am going to reorganize this Debtor's property and I am going to do it as quickly as I possibly can. Now, remember what I said: I am going to reorganize that Debtor and its property. I am going to do it as quickly as I can. I am going to turn this property out of Court where it can have a reasonable chance to make a profit. It can never make it in Court. It is utterly impossible to make a profit in this Court or in any other Court. I am going to get it out.

Now, if you have any cause of action against the Trustees or against S. W. Straus & Co. or against this Bondholders Committee I haven't any objection to your pursuing that cause of action provided that it does not interfere with the speedy completion of the bankruptcy proceedings in this Court. I am not going to allow the pursuit of these causes of action against the three entities to interfere with the speedy prosecution of this case. I am going to get this property out of Court. I am not going to have it here for five or six or ten or fifteen years while some supposed cause of action is to be prosecuted.

Now, I hope that some plan of reorganization can be devised where these supposed causes of action, if they exist, can be prosecuted and be pursued, if anybody has a
142 cause of action, but I will not permit them to delay the proceedings. I am going ahead until some reviewing Court, either a Circuit Court of Appeals of the 7th Circuit, or the United States Supreme Court tells me I shall not, because I believe it is my bounded duty to proceed. The Bondholders have a right to get this out of Court and to get it out speedily. I cannot see any reason why you should not go ahead. If you have a cause of action existing in this Bondholder, or any bondholder, one of them or all of them, that is no part of the property of the debtor. I am not going to reorganize that cause of action, but, if there is a cause of action against anybody,—I don't see it now, I haven't seen it,—in the Debtor I am going to preserve that cause of action and pass it over to the reorganized corporation. In any event we are not going to throw it away.

Now, that is the way I feel about it. Now, that is the way I am going to operate in this and in all like cases until some

reviewing Court,—and there are only two that can change my mind on that—tells me I shall not.

JOHN B. BARNES,
U. S. District Judge.

143 And afterwards, to wit, on the 20th day of March, 1935, being one of the days of the regular March term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable John P. Barnes, District Judge, appears the following entry, to wit:

144 IN THE UNITED STATES DISTRICT COURT. Entered Mar 1935.

* * (Caption—58701) * *

ORDER.

This cause coming on to be heard upon the Petition of Nettie Meyer to dissolve the Injunction and to dismiss the proceedings for bad faith and want of jurisdiction, and upon the motion to dismiss the petition of said Nettie Meyer, and the court having heard arguments of counsel without any evidence and being fully advised in the premises;

It Is Ordered, Adjudged and Decreed that the prayer contained in the petition of Nettie Meyer to dissolve the Injunction and to dismiss the proceedings for lack of jurisdiction and for bad faith be and same is hereby denied and the motion to dismiss the Petition of Nettie Meyer is hereby reserved until after the presentation of the plan for reorganization, and that all parties be required to serve notice of further proceedings on counsel for Nettie Meyer.

It Is Further Ordered that the statement of the court in rendering the decision be made a part of the Record, which statement has been reduced to writing and filed here-
145 with.

Enter:

JOHN P. BARNES,
Judge.

Mar. 20, 1935.

146 And on, to wit, the 20th day of March, 1935, came the Petitioner by her attorneys and filed in the Clerk's office of said Court a certain Petition for Appeal in words and figures following, to wit:

147 IN THE UNITED STATES DISTRICT COURT.
* * (Caption—58701) * *

PETITION FOR APPEAL TO THE CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

Petitioner, Nettie Meyer, by Shulman, Shulman and Abrams, her attorney, conceiving herself aggrieved by order of court entered March 20, 1933, does hereby petition for an appeal from said Order to the United States Circuit Court of Appeals for the Seventh Circuit, and prays that a citation be issued against the Kenmore Granville Building Company, a corporation, J. Gold, S. Sandroff, and S. Eisenberg, petitioning creditors, and George W. Rossitter, Jay C. McCord and Sidney H. Kahn, members of Bondholders Protective Committee, commanding them and each of them to appear before said court to do and receive that which may appertain to justice to be done in the premises, and that the court may certify that no evidence was heard or taken in this cause except the oral argument of counsel.

Petitioner is hereto attaching an Assignment of Errors.

NETTIE MEYER,
Petitioner.
By SHULMAN, SHULMAN & ABRAMS,
Her Attorneys.

State of Illinois, } ss.
County of Cook. }

MEYER ABRAMS, being first duly sworn on his oath, deposes and says that he is the duly authorized agent for the petitioner; that he has read the foregoing Petition, knows the contents thereof, and that it is true in substance and in fact.

MEYER ABRAMS.

Subscribed and sworn to before me this 20th day of March, A. D., 1935.

ROSE RITTENBERG,
Notary Public.

148 And on, to wit, the 20th day of March, 1935 came the Petitioner by her attorneys and filed in the Clerk's office of said Court a certain Assignment of Errors in words and figures following, to wit:

149 ASSIGNMENT OF ERRORS. Filed Mar. 1935.

Now comes Nettie Meyer by Shulman Shulman and Abrams, her attorneys, petitioner-appellant, and assigns error of the orders made and entered in this cause and of the record and proceedings had therein, and files the following Assignment of Errors upon which she will rely in the prosecution of this appeal from the Order entered March 20, 1935, which is as follows:

(1) The court erred in denying the prayer of the petition of Nettie Meyer to dissolve the Injunction and to dismiss the proceedings for want of jurisdiction.

(2) The court erred in denying the prayer of the petition of Nettie Meyer to dissolve the Injunction and to dismiss the proceedings for bad faith.

(3) It affirmatively appears that there is no creditor and no debtor involved in these proceedings, and it was the duty of the court to so hold, and it erred in not dismissing the proceedings.

(4) It was the duty of the court to hold that the consent of the Debtor to confer jurisdiction on the court was in bad faith and is a fraud upon both the District Court and the State court.

(5) The court erred in issuing the restraining order and in refusing to dissolve it.

(6) It erred in not holding that the Amendment to the Bankruptcy Act under Section 77B was not within the scope of bankruptcy and was unconstitutional in that the Legislative Branch had usurped its powers in stripping the Judiciary of its functions.

(7) The court was without jurisdiction to deprive the State Court of the subject matter involving fraud and breach of trust.

Wherefore petitioner prays that all orders made in this cause as well as the order issuing the Injunction refusing to dissolve it and refusing to grant the prayer of the petition be reversed to the end that the proceedings be dismissed and the Injunction dissolved.

SHULMAN, SHULMAN & ABRAMS,
Attorneys for Petitioner-Appellant.

ed Mar. 20, 5. 151 And afterwards, to wit, on the 20th day of March, 1935, being one of the days of the regular March term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable John P. Barnes, District Judge, appears the following entry, to wit:

152 IN THE UNITED STATES DISTRICT COURT.

* * (Caption—58701) * *

ORDER.

This cause coming on further to be heard upon the Petition to appeal by Nettie Meyer, petitioner, and upon the Assignment of Errors filed in open court in the presence of all counsel;

It Is Ordered that the appeal be allowed and that the said Nettie Meyer be required to file an appeal bond in the sum of $500.00 within 10 days from date hereof with sufficient surety as a cost bond. This appeal shall not stay the proceedings in the case.

It Is Further Ordered that a citation be issued against the Kenmore Granville Building Company, a corporation, J. Gold, R. Sandroff and S. Eisenberg, petitioning creditors, and George W. Rossitter, Jay C. McCord and Sidney H. Kahn, members of the Bondholders Protective Committee.

Enter:

BARNES,
Judge.

March 20, 1935.

Mar. 23, 35. 153 And on, to wit, the 23rd day of March, 1935, came the Appellant by her attorneys and filed in the Clerk's office of said Court a certain Bond on Appeal in words and figures following, to wit:

154 IN THE UNITED STATES DISTRICT COURT.

* * (Caption—58701) * *

APPEAL BOND.

Know All Men by These Presents that we, Nettie Meyer, as principal, and ..... as surety, are held and firmly bound unto the Kenmore Granville Hotel

Co., et al. in the full and just sum of $500,000 to be paid to the said Kenmore Granville Hotel Co., et al., to which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators jointly and severally by these presents.

Sealed with our seals and dated this 26th day of March, A. D., 1935.

Whereas lately at the hearing of the District Court of the United States for the Northern District of Illinois, Eastern Division, in the proceedings for corporate reorganization in the above entitled cause certain orders were made and entered from which an appeal was prosecuted to the United States Circuit Court of Appeals for the Seventh Circuit, and directed to the said Kenmore Granville Hotel Co. and other parties wherein enumerated, citing them and each of them to appear in the United States Circuit Court of Appeals for the Seventh Circuit, at Chicago, Illinois, within 30 days from and after the date of said citation.

Now the condition of the above obligation is such that if the said Nettie Meyer shall prosecute said appeal to effect and answer all costs if she fails to make good her plea, then the above obligation to be void, else to remain in full force and effect.

NETTIE MEYER,
Principal.
By MEYER ABRAMS.
UNITED STATES FIDELITY & GMARANTY COMPANY,
Surety.
By EDMOND J. MORONEY.

155 And afterwards, to wit, on the 28th day of March, 1935, being one of the days of the regular March term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable John P. Barnes, District Judge, appears the following entry, to wit:

156 IN THE UNITED STATES DISTRICT COURT.
* * (Caption—58701) * *

ORDER.

On motion of Shulman Shulman and Abrams, to approve the appeal bond of Nettie Meyer, appellant, with the United States Fidelity and Guaranty Company as surety in the

penal sum of $500.00, a per Order heretofore entered in this cause allowing the appeal;

It Is Hereby Ordered that the said appeal bond be and same is hereby ordered approved and filed, and a citation is hereby issued as prayed for in the petition for the appeal.

Enter:

BARNES,
Judge.

Mar. 28, 1935.

Apr. 2, 35. 157 And on, to wit, the 2nd day of April, 1935, came the parties by their attorneys and filed in the Clerk's office of said Court a certain Stipulation in words and figures following, to wit:

158 IN THE DISTRICT COURT OF THE UNITED STATES.

* * (Caption—58701) * *

STIPULATION.

It Is Hereby Stipulated by and between the parties through their respective attorneys that there be included in the transcript of the record in connection with the appeal taken in the above entitled cause in addition to all other documents enumerated in the Praecipe for Record, the documents hereto attached consisting of:

(1) Motion of petitioning creditors.
(2) Motion of debtor.
(3) Joint intervening petition.
(4) Agreement to Plan of Reorganization.

and that the transcript of record be certified to contain all of the foregoing documents.

SHULMAN, SHULMAN & ABRAMS,
Attorneys for Nettie Meyer, appellant.
MAX FREDERICK GOLDBERG,
Attorneys for Debtor.
TARNAPOL & FLAMM,
Attorneys for Petitioning Creditors.
SONNENSCHEIN, BERKSON, LAUTMANN, LEVINSON & MORSE,
Attorneys for Bondholders Protective Committee.

159 And on, to wit, the 28th day of March, 1935, came the Appellant by her attorneys and filed in the Clerk's office of said Court a certain Praecipe in words and figures following, to wit:

160 IN THE UNITED STATES DISTRICT COURT.

* * (Caption—58701) * *

PRAECIPE FOR RECORD.

To the Clerk of the United States District Court:

You are hereby authorized and directed to prepare for record in connection with the appeal taken in the above entitled cause to the Circuit Court of Appeals for the 7th Circuit, and to include therein the following:

(1) Petition of J. Gold, R. Sandroff and S. Isenberg, petitioning creditors on file in this court.
(2) Answer to Petition by Kenmore Granville Hotel Co.
(3) Order entered February 13, 1935.
(4) Petition of Nettie Meyer filed February 25, 1935.
(5) Order entered February 25, 1935.
(6) Written motion of George W. Rossiter, Jay C. McCord and Sidney H. Kahn to dismiss the Petition of Nettie Meyer.
(6) Order entered March 20, 1935, denying the prayer to dissolve the Injunction and to dismiss the proceedings for want of jurisdiction together with statement of the court made part of the order and filed separately.
(7) Petition for leave to appeal and Assignment of Errors filed March 20, 1935.
(8) Order allowing appeal filed March 20, 1935.
(9) Appeal bond filed March 28, 1935.
(10) Order approving appeal bond.
(11) Citation and Proof of Service.
161 (12) Praecipe for Record and Proof of Service.

You are further requested to certify the foregoing to the Circuit Court of Appeals for this Circuit.

SHULMAN, SHULMAN & ABRAMS,
Attorneys for Nettie Meyer, Appellant.

Proof of Service.

Received a copy of the foregoing Praecipe for Record this 28th day of March, A. D., 1935.

TARNOPOL, FLAMM & SIDEMAN,
Attorneys for Petitioning Creditors,
MAX FREDERICK GOLDBERG,
Attorney for Debtor,
SONNENSCHEIN, BERKSON, LAUTMANN, LEVINSON & MORSE,
JUDAH, REICHMANN, TRUMBULL, COX & STERN,
Attorneys for Jay C. McCord, et al, Members of Bondholders Protective Committee.

162 Northern District of Illinois } ss.
Eastern Division }

I, Henry W. Freeman, Clerk of the District Court of the United States for the Northern District of Illinois, do hereby certify the above and foregoing to be a true and complete transcript of the proceedings had of record made in accordance with Praecipe filed in this Court in the cause entitled In the matter of Kenmore-Granville Hotel Company, a corporation, No. 58701 as the same appear from the original records and files thereof now remaining in my custody and control.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court at my office, in the City of Chicago, in said District, this 8th day of April, A. D. 1935.

HENRY W. FREEMAN,
Clerk.

(Seal)

163 United States of America } ss.

IN THE DISTRICT COURT OF THE UNITED STATES.

For the Northern District of Illinois,

Eastern Division.

CITATION ON APPEAL.

To the Kenmore Granville Hotel Co., a corporation, J. Gold, R. Sandroff and S. Isenberg, petitioning creditors; George W. Rossitter, Jay C. McCord, Sidney H. Kahn, members of the Sovereign and Sovereign Annex First Mortgage Bondholders Committee, Greetings:

You Are Hereby Cited and admonished to be and appear in the United States Circuit Court of Appeals for the Seventh Circuit in the City of Chicago, State of Illinois, within 30 days from March 20, 1935, pursuant to an order allowing an appeal from the District Court of the United States, for the Northern District of Illinois, Eastern Division in a suit wherein the above parties are appellees, and Nettie Meyer is appellant, to show cause, if any there be, why the orders entered in favor of the appellees and denying the relief prayed for by the appellant should not be corrected and why speedy justice should not be done to the parties in that behalf.

JOHN P. BARNES,
Judge of the District Court for the Northern District of Illinois.

(Seal)

Proof of Service.

Service of a copy of the foregoing Citation is acknowledged this 28th day of March, A. D. 1935.

MAX FREDERICK GOLDBERG,
Attorneys for Kenmore-Granville Hotel Co.

TARNOPOL FLAMM & SIDEMAN,
Attorneys for Petitioning Creditors.

SONNENSCHEIN, BERKSON, LAUTMAN, LEVINSON & MORSE,
JUDAH REICHMANN TRUMBULL COX & STERN,
Attorneys for Jay C. McCord, et al, members of Bondholders' Protective Committee.

164 (Endorsed) In the United States District Court. * * (Caption—58701) * * Citation On Appeal. Filed Mar 28 1935 at 2:40 o'clock P. M. Henry W. Freeman Clerk.

r. 16,

Case No. 5491.

IN THE UNITED STATES CIRCUIT COURT OF APPEALS.

In the Matter of Kenmore Granville Hotel Company, a corporation, Debtor.	Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division. Honorable John P. Barnes, Judge.

STIPULATION AS TO PRINTING RECORD.

It is hereby stipulated by and between the parties through their respective attorneys that the record be printed as follows:

(1) Omit Exhibit "A" on page 15.

(2) Omit Exhibit "B" on page 16.

*(3) Omit Exhibit "E" on page 25, (21-41) and print in lieu thereof only those parts as per copy attached.

(4) Omit Exhibit "A" on page 83. (99-115)

(5) Print everything else as contained in the record.

SHULMAN, SHULMAN & ABRAMS
Attorneys for Appellant.

MAX FREDERICK GOLDBERG,
Attorneys for Debtor.

TARNOPOL, FLAWN & SIDEMAN
Attorneys for Creditors.

GOTTLEIB AND SCHWARTZ
JUDAH, REICHMANN TRUMBULL, COX & STERN
Attorneys for Committee Appellees.

Endorsed: General No. 5491 In the United States Circuit Court of Appeals In the Matter of Kenmore-Granville Hotel Company, a corporation Stipulation as to Printing Record Filed Apr. 16, 1935 Frederick G. Campbell, Clerk. Shulman, Shulman and Abrams, Attorneys & Counselors, Room 2000—134 N. La Salle Street Phone State 3300 Chicago.

* (The "copy attached" appearing at p. 10 to p. 19, printed record, is omitted here.)

At a regular term of the United States Circuit Court of Appeals for the Seventh Circuit, begun and held in the United States Court Room, in the City of Chicago, in said Seventh Circuit, on the second day of October 1934, of the October Term, in the year of our Lord one thousand nine hundred and thirty-four, and of our Independence the one hundred and fifty-ninth.

In the Matter of: Kenmore-Granville Hotel Company, a corporation
Debtor

NETTIE MEYER
Appellant

5491 *vs.*

KENMORE-GRANVILLE HOTEL COMPANY, a corporation, J. GOLD, R. SANDROFF and S. ISENBERG, Petitioning Creditors, and GEORGE W. ROSSETTER, JAY C. McCORD, SIDNEY H. KAHN, Members of The Sovereign Annex First Mortgage Bondholders' Committee.
Appellees.

Appeal from the District Court of the United States for the Northern District of Illinois Eastern Division.

And afterwards, to-wit: On the twenty-first day of May, 1935, there was filed in the office of the Clerk of this court, a Petition to Dismiss Appeal, which said Petition is in the words and figures following, to-wit:

IN THE UNITED STATES CIRCUIT COURT OF APPEALS.
* * (Caption—5491) * *

PETITION.

Now come Kenmore-Granville Hotel Company, a corporation, Debtor, J. Gold, R. Sandroff and S. Isenberg, petitioning creditors, and George W. Rossetter, Jay C. McCord and Sidney H. Kahn, as The Sovereign and Sovereign Annex First

Mortgage Bondholders' Committee, appellees herein, by their respective counsel, and move the court to dismiss the appeal of Nettie Meyer to the United States District Court of Appeals for the Seventh District allowed in the United States District Court (trans. of rec. p. 960) and in support of this motion appellees present the suggestions attached hereto.

IRVING H. FLAMM,
MAX FREDERICK GOLDBERG,
BERNARD NATH,
HERBERT M. LAUTMANN,
I. E. FERGUSON,
ARTHUR M. COX,
CLAUDE A. ROTH,
WILLIAM J. FRIEDMAN,
Counsel for Appellees.

Endorsed: Filed May 21, 1935. Frederick G. Campbell, Clerk.

And on the same day, to-wit: On the twenty-first day of May, 1935, the following further proceedings were had and entered of record, to-wit:

Tuesday, May 21, 1935.

Court met pursuant to adjournment and was opened by proclamation.

Before:

Hon. Evan A. Evans, *Circuit Judge*
Hon. William M. Sparks, *Circuit Judge*
Hon. Louis FitzHenry, *Circuit Judge.*

Now this day come the parties by their counsel, and counsel for appellees present a motion to dismiss this appeal, which said motion is taken under advisement.

It is ordered that counsel for appellant have five days to file a brief in opposition to motion to dismiss appeal.

And afterwards, to-wit: On the twenty-eighth day of May, 1935, the following further proceedings were had and entered of record, to-wit:

Tuesday, May 28, 1935.

Court met pursuant to adjournment and was opened by proclamation.

Before:

Hon. Evan A. Evans, *Circuit Judge*
Hon. William M. Sparks, *Circuit Judge*
Hon. Louis FitzHenry, *Circuit Judge*

On motion of counsel for appellees, it is now here ordered, adjudged and decreed by this court that the motion of counsel for appellees to dismiss this appeal be, and the same is hereby sustained, and that this appeal be, and the same is hereby dismissed with costs.

And afterwards, to-wit: On the eighteenth day of June, 1935, the Mandate of this Court issued to the District Court of the United States for the Northern District of Illinois, Eastern Division.

And afterwards, to-wit: On the ninth day of July, 1935, the following further proceedings were had and entered of record, to-wit:

Tuesday, July 9, 1935.

Court met pursuant to adjournment and was opened by proclamation.

Before:

Hon. Evan A. Evans, *Circuit Judge*
Hon. William M. Sparks, *Circuit Judge*

It is ordered by the court that the motion of the appellant that the Mandate of this court heretofore issued in this cause, be recalled and stayed pending application and disposition of a petition for a writ of certiorari to the Supreme Court of the United States, and for an order consolidating this cause with cause Number 5531, and to enter orders dismissing the two appeals simultaneously in the consolidated causes be, and the same is hereby overruled, and the petition of the appellant in support of said motion be, and the same is hereby denied.

And afterwards, to-wit: On the twelfth day of July, 1935, there was filed in the office of the Clerk of this court, a Praecipe for Record, which said Praecipe is in the words and figures following, to-wit:

IN THE UNITED STATES CIRCUIT COURT OF APPEALS.

* * (Caption—5491) * *

PRAECIPE FOR RECORD.

To the Clerk of the United States Circuit Court of Appeals for the Seventh Circuit:

You are hereby requested and directed to prepare the record for the Supreme Court of the United States, said record to consist of the following:

(1) Printed Record
(2) Motion to Dismiss
(3) Order of Dismissal
(4) All Orders

You are requested to certify same to the Supreme Court of the United States.

MEYER ABRAMS,
Attorney for Nettie Meyer,
Appellant.

1 At a regular term of the United States Circuit Court of Appeals for the Seventh Circuit, begun and held in the United States Court Room, in the City of Chicago, in said Seventh Circuit on the second day of October, 1934, of the October Term in the year of our Lord One Thousand Nine Hundred and Thirty-Four, and of our Independence the One Hundred and Fifty-Ninth.

In the Matter of Kenmore-Granville Hotel Company, a corporation, *Debtor;*

NETTIE MEYER, in her own behalf and on behalf of other objectors represented by Shulman, Shulman & Abrams,

5531 *vs.*

KENMORE GRANVILLE HOTEL COMPANY, a corporation, J. GOLD, R. SANDROFF and S. ISENBERG, Petitioning Creditors; and GEORGE W. ROSSETTER, JAY C. MCCORD, and SIDNEY H. KAHN, as the Sovereign Annex First Mortgage Bondholders' Committee, and the Sovereign First Mortgage Bondholders' Committee.

Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division.

The following pages numbered from 108 to and including the first one-half of 170 are true copies of the parts of the transcript of the record of proceedings of the District Court of the United States for the Northern District of Illinois, Eastern Division, filed on June 6, 1935, as called for by appellants' praecipe, filed on July 12, 1935, and appellees' praecipe, filed on July 17, 1935.

And on, to-wit, the 27th day of February, 1935, came the petitioners by their attorneys and filed in the Clerk's office of said court a certain joint intervening petition in words and figures following, to-wit:

2 IN THE DISTRICT COURT OF THE UNITED STATES
(Caption—58701)

JOINT INTERVENING PETITION OF GEORGE W. ROSSETTER, JAY C. McCORD AND SIDNEY H. KAHN, AS THE SOVEREIGN ANNEX FIRST MORTGAGE BONDHOLDERS' COMMITTEE AND THE SOVEREIGN FIRST MORTGAGE BONDHOLDERS' COMMITTEE, REPRESENTING CERTAIN HOLDERS OF FIRST MORTGAGE BONDS OF SAID ISSUES, PURSUANT TO ORDER OF COURT ENTERED FEBRUARY 13, 1935.

To the Honorable, the Judges of the District Court of the United States, for the Northern District of Illinois, Eastern Division:

Your petitioners, George W. Rossetter, Jay C. McCord and Sidney H. Kahn, as the Sovereign Annex First Mortgage Bondholders' Committee, constituted under Deposit Agreement dated January 23, 1931, representing the holders of certain of the Sovereign Annex 6½% First Mortgage Gold Bonds dated August 1, 1922, and as The Sovereign First Mortgage Bondholders' Committee, constituted under Deposit Agreement dated April 21, 1931, representing the holders of certain of the 6% First Mortgage Gold Bonds dated November 1, 1919, represent and show unto the court:

3 1. That they constitute and are acting as members of two Committees, namely:

(a) The Sovereign Annex First Mortgage Bondholders' Committee, constituted under and by virtue of a Deposit Agreement dated January 23, 1931, between your petitioners as the original members and as the duly constituted successors of the original members of such Committee and persons depositing bonds thereunder; and

(b) The Sovereign First Mortgage Bondholders' Committee, constituted under and by virtue of a Deposit Agreement dated April 21, 1931, between your petitioners as the original members and as the duly constituted successors of the original members of such Committee and persons depositing bonds thereunder;

that as is represented in the creditors' petition filed in the above entitled cause, the property and premises owned by the

debtor herein is improved with two separate buildings designated as "The Sovereign" and as the "Sovereign Annex"; that the property described as "The Sovereign" is subject to the lien of a first mortgage trust deed dated November 1, 1919, securing an issue of first mortgage bonds in the original principal sum of $1,000,000.00, of which said original principal amount and the coupons appertaining thereto, there is outstanding and unpaid as of this date unsubordinated bonds in the principal sum of $575,000.00, and subordinated bonds and coupons in the aggregate sum of $173,926.49; that said property described as "Sovereign Annex" is subject to the lien of a first mortgage trust deed dated August 1, 1922, securing an issue of first mortgage bonds in the original
4 principal sum of $1,000,000.00, of which said principal sum and the coupons appertaining thereto there is outstanding and unpaid as of this date unsubordinated bonds in the principal sum of $798,000.00 and subordinated coupons in the aggregated sum of $131,954.76.

2. That upon the happening of the respective defaults under the aforesaid Trust Deeds, your petitioners called for the deposit of first mortgage bonds under and pursuant to the respective Deposit Agreements hereinbefore described, and your petitioners are representing the holders of such bonds secured by the respective Indentures aforesaid who have deposited or who may deposit their bonds with the Depositary of your petitioners; that the copy of the Deposit Agreement relating to the "Sovereign," attached to the creditors' petition as Exhibit "B," is a true and correct copy of the Deposit Agreement under which your petitioners are acting as The Sovereign First Mortgage Bondholders' Committee; that a copy of the Deposit Agreement under which your petitioners are acting as the Sovereign Annex First Mortgage Bondholders' Committee is attached hereto marked Exhibit "A" and your petitioners pray leave to refer to said Deposit Agreement with like effect as though the same were set forth in full herein.

3. That on February 4, 1935, J. Gold, R. Sandroff and S. Isenberg filed their creditors' petition under Section 77B of the Act of Congress relating to bankruptcy praying for the reorganization of the debtor herein and on February 13, 1935, said debtor filed its answer to said petition admitting substantially all of the allegations made in said creditors'

petition and praying for an opportunity to reorganize;
5 that on February 13, 1935 an order was entered approving said creditors' petition as being properly filed, granting leave to these petitioners to intervene and file this, their petition, within ten (10) days.

4. That as is alleged in said creditors' petition, the lien of said "Sovereign" First Mortgage Trust Deed is being foreclosed in the Circuit Court of Cook County in a cause therein docketed as case No. B-219230 and the lien of said "Sovereign Annex" First Mortgage Trust Deed is being foreclosed in a cause known and docketed in the Circuit Court of Cook County as case No. B-218773; that although decrees of foreclosure have been entered in said respective causes aforesaid, no steps have been taken for the enforcement of said decrees by sale or otherwise.

5. That under date of February 3, 1933, your petitioners, as said "Sovereign" First Mortgage Bondholders' Committee and said "Sovereign Annex" First Mortgage Bondholders' Committee, formulated and adopted a joint plan of reorganization, the scope of which said plan included the financial structures of the two separate units known and designated as aforesaid, it being intended, contemplated and designed that under said plan the two properties would be operated together.

6. That on, to-wit, July 13, 1933, your petitioners, as such Committees as aforesaid, mailed to all holders of said Sovereign and Sovereign Annex First Mortgage Bonds, to the extent that the names and addresses of such holders were known, a notice of the adoption of said plan of reorganiza-
6 tion; that the notice referred to in Paragraph 12 of said creditors' petition and attached thereto marked Exhibit "F" is a copy of the notice prepared and mailed under the supervision and direction of these Committees, and your petitioners pray leave to refer to said Exhibit "F" for a summary of the description of the indentures of mortgage hereinbefore referred to, the description of the property, the financial position of the property and the general financial condition of the operations of said property as of July 13, 1933, and the summary of the details of said plan of reorganization as though the same were incorporated herein at length.

7. That since the aforesaid communication to the bondholders, your petitioners, as such Committees, as aforesaid,

did, under date of April 23, 1934, mail an additional general communication to said bondholders, a copy of which is hereto attached marked Exhibit "B" and by reference made a part hereof as though the same were incorporated herein at length.

8. That as of February 13, 1935, there was on deposit with American National Bank and Trust Company of Chicago, as Depositary under said respective Deposit Agreements aforesaid, bonds in the aggregate principal sum of $543,600.00 or 94.5% of the principal amount of all of the outstanding, unsubordinated and unpaid first mortgage bonds of said "Sovereign" issue and bonds in the aggregate principal sum of $764,000.00 or 95.7% of the principal amount of all of the outstanding, unsubordinated and unpaid first mortgage bonds of said "Sovereign Annex" issue; that all of said deposits represent bondholders who have assented and approved said plan of reorganization dated February 3, 1933; that your petitioners, pursuant to the terms of said Deposit Agree-
7 ments, are vested with full, legal and equitable title to the bonds deposited with them and are the owners and holders thereof.

9. That on February 26, 1935, said Plan of Reorganization was amended in certain respects and that as so amended said agreement constitutes a plan of reorganization of said Kenmore-Granville Hotel Company, a corporation, the owner of the "Sovereign" and "Sovereign Annex" properties, hereinafter called the "plan", within the meaning of Section 77B of the Bankruptcy Act, as amended, a copy of which plan, marked Exhibit "C", is attached hereto and by reference made a part hereof as though the same were fully set forth herein.

10. That in addition to the indebtedness of said Debtor, as hereinbefore set forth in Paragraph 1 hereof, said Debtor is also indebted to Nomis Suarts Corporation in the approximate amount of $73,371.45, and for general property taxes as follows:

1929—Bal. $13,856.02; 1930—Bal. $18,121.34;
1931—$33,362.70; 1932—Bal. $24,777.43;
1933—1st inst. $10,276.86, 2nd inst. $10,075.35;
1934 (Estimated) $19,200.00, or in the aggregate the approximate sum of $129,669.70

and that therefore your petitioners, as the owners and holders of said deposited bonds are creditors of the said debtor holding not less than 25% in amount of claims that will be affected by said plan of reorganization and holding not less than 10% in amount of all claims against said debtor.

11. That in the opinion of your petitioners the aforesaid plan is fair to all interests involved, is reasonable and equitable and does not discriminate unfairly in favor of any class of stockholders or creditors, is feasible and complies with the provisions of subsection (b) of Section 77B of the Act aforesaid, and all of the other relevant provisions of said Section 77B.

8 12. That your petitioners desire to submit the aforesaid plan as a plan of reorganization within the meaning and purview of Sections 77A and 77B of the Bankruptcy Act and acts and sections amendatory thereof and supplemental thereto; that said plan has been approved by the debtor herein as and for a plan of reorganization within the meaning and purview of the aforesaid sections.

13. That the depositors and holders of said bonds are widely scattered geographically, and in the opinion of your petitioners it will cause unnecessary expense, confusion and delay if the depositors of bonds under the plan are requested to execute further acceptance of the plan in writing, after having approved the plan of reorganization at the time the same was submitted as hereinbefore set forth, and the amendments thereto being immaterial and not adversely affecting any creditor or stockholder affected by the plan; that therefore your petitioners, as a Committee as aforesaid, desire to be permitted to accept the aforesaid plan in writing on behalf of those bondholders who have already deposited their bonds with the Depositary of your petitioners and evidenced their acceptance of said plan of reorganization.

14. That for the purpose of completing the said plan of reorganization it is necessary that the creditors and stockholders of the debtor be divided into classes according to the nature of their respective claims and interests; that your petitioners respectfully recommend that the creditors and stockholders of the debtor, for the purpose of the plan of reorganization and the acceptance thereof as aforesaid, be divided into the following classes according to the nature of their respective claims and interests:

9 *Class A:*

(1) Melvin L. Straus, as Trustee under that certain Trust Deed and Chattel Mortgage dated November 1, 1919 and recorded in the office of the Recorder of Deeds of Cook County, Illinois, as Documnt No. 6699724, for the benefit of himself and his attorneys for services rendered in the foreclosure proceedings case No. B-219230, as allowed by the foreclosure decree, togther with court costs and Master's fees allowed by said decree; Samuel J. T. Straus, as Trustee under that certain Trust Deed and Chattel Mortgage dated August 1, 1922 and recorded in the office of the Recorder of Deeds of Cook County, Illinois, as Document No. 7717203, for the benefit of himself and his attorneys for services rendered in the foreclosure proceedings case No. B-218773, as allowed by the foreclosure decree, together with court costs and Master's fees allowed by said decree.

(2) Holders of unsubordinated, outstanding and unpaid first mortgage bonds and interest coupons secured by the Trust Deed and Chattel Mortgage to Melvin L. Straus, as Trustee, dated November 1, 1919 and recorded as Document No. 6699724 as aforesaid; holders of unsubordinated, outstanding and unpaid first mortgage bonds and interest coupons secured by the Trust Deed and Chattel Mortgage to Samuel J. T. Straus, as Trustee, dated August 1, 1922 and recorded as Document No. 7717203 as aforesaid.

Class B:

Holders of subordinated first mortgage bonds and interest coupons secured by the Trust Deed and Chattel Mortgage recorded as Document No. 6699724 as aforesaid; holders of subordinated first mortgage bonds and interest coupons secured by the Trust Deed and Chattel Mortgage recorded as Document No. 7717203 as aforesaid.

Class C:

General Creditors.

Class D:

Holders of the Common Stock of the Debtor;

that an order be entered herein fixing the manner and time

within which claims of creditors and stockholders may be
10 filed, including provisions for the filing of claims by Melvin L. Straus and Samuel J. T. Straus, as Trustees under the respective Trust Deeds aforesaid securing the first mortgage bonds, and including the filing of claims by the Committees representing the holders of first mortgage bonds secured by said respective Trust Deeds aforesaid, and that a date be set for a hearing on the confirmation of the plan of reorganization herein proposed and upon objections, if any, that may be filed thereto in accordance with any order entered in this proceeding.

WHEREFORE, your petitioners pray for the entry of an order herein:

(1) Permitting your petitioners to file the plan of reorganization herein as and for a plan of reorganization pursuant to the provisions of Section 77B of the Act of Congress relating to Bankruptcy;

(2) Fixing the time of hearing for the consideration of said plan of reorganization and its confirmation and the manner of giving notice of such hearing;

(3) Providing that your petitioners may accept said plan of reorganization on behalf of the holders of bonds to whom said plan has already been submitted and who have approved of said plan and deposited their bonds, and on behalf of such bondholders as may hereafter deposit their bonds and approve of said plan of reorganization, and providing that the debtor may accept said plan of reorganization on behalf of the stockholders to whom said plan has already been submitted and who have approved of said plan;

(4) Fixing the time within which bondholders who have not deposited their bonds with your petitioners, or stockholders who have not approved of said plan, may file objec-
11 tions to said plan of reorganization;

(5) Dividing the creditors and stockholders of the debtor into classes for the purpose of the plan of reorganization presented in these proceedings, and the acceptance thereof as aforesaid;

(6) Fixing the manner and time within which the claims of creditors and stockholders may be filed and allowed and appointing a Depositary to accept bonds and interest coupons filed in accordance with such claims;

(7) Providing for such other and further relief as may be proper.

And your petitioners will ever pray.

GEORGE W. ROSSETTER, JAY C. McCORD AND SIDNEY H. KAHN, AS THE SOVEREIGN ANNEX FIRST MORTGAGE BONDHOLDERS' COMMITTEE AND THE SOVEREIGN FIRST MORTGAGE BONDHOLDERS' COMMITTEE,

By JAY C. McCORD.

GOTTLIEB & SCHWARTZ,
SONNENSCHEIN, BERKSON, LAUTMAN, LEVINSON & MORSE,
JUDAH, REICHMANN, TRUMBULL, COX & STERN,
Attorneys for Petitioners.

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

JAY C. McCORD, being first duly sworn, on oath deposes and says that he is a member of the Sovereign Annex and The Sovereign First Mortgage Bondholders' Committee, constituted under the respective Deposit Agreements in said petition described, the petitioners above named; that he has read the above and foregoing petition by him subscribed on behalf of such petitioners and knows the contents thereof and that the same is true in substance and in fact.

JAY C. McCORD.

Subscribed and sworn to before me, this 26th day of Feb. ....., 1935.

JENNIE T. JOHNSON,
Notary Public.

12 PLAN OF REORGANIZATION OF THE SOVEREIGN AND THE SOVEREIGN ANNEX

Messrs. Rufus C. Dawes, Jay C. McCord, Georg W. Rossetter and Sidney H. Kahn, have heretofore been constituted and appointed The Sovereign First Mortgage Bondholders'

Committee under Deposit Agreement dated April 21, 1931, and Messrs. Rufus C. Dawes, Jay C. McCord, George W. Rossetter, Sidney H. Kahn and Robert E. Straus have heretofore been constituted and appointed The Sovereign Annex First Mortgage Bondholders' Committee under Deposit Agreement dated January 23, 1931, (which said Committees are hereinafter sometimes together referred to as the "Committees").

The Sovereign Hotel, located at the northwest corner of Kenmore and Granville Avenues, Chicago, Illinois, is subject among other things, to a Trust Deed and Chattel Mortgage dated November 1, 1919, from Albert Hotel & Building Corporation to Arthur W. Straus, as Trustee, securing an issue of Six Per Cent (6%) First Mortgage Gold Bonds in the original aggregate principal sum of One Million Dollars ($1,000,000), of which unsubordinated bonds in the aggregate principal sum of Five Hundred Seventy-five Thousand Dollars ($575,000) remain outstanding and unpaid.

The Sovereign Annex, situated on Kenmore Avenue, near Granville Avenue, Chicago, Illinois, is subject, among other things, to a Trust Deed and Chattel Mortgage dated
13. August 1, 1922, from The Sovereign Hotel Corporation to Melvin L. Straus, as Trustee, securing an issue of Six and One-Half Per Cent (6½%) First Mortgage Gold Bonds in the original aggregate principal sum of One Million Dollars ($1,000,000) of which unsubordinated bonds in the aggregate principal amount of Seven Hundred Ninety-eight Thousand Dollars ($798,000) remain outstanding and unpaid.

Default has been made in the terms of the aforesaid trust indentures in the payment of interest and principal, and it is apparent that the income from the property is insufficient to meet the payments of principal and interest due from time to time under the provisions of the said trust indentures. A reorganization and refinancing of the property is therefore necessary.

The entire amounts of the bond issues have been declared due and payable because of defaults. Proceedings have been instituted to foreclose the aforesaid trust indentures, and decrees entered therein.

Because of the defaults, the Trustees under the trust indentures have taken possession of the mortgaged properties and are now operating them and holding the income for the benefit

of the first mortgage bondholders. A substantial majority of the first mortgage bonds of both issues have been deposited, and the Committees are authorized under the said Deposit Agreements to enter into a Plan of Reorganization and are desirous of so doing.

The Sovereign Annex is an addition to the Sovereign Hotel and the two buildings were designed to be and always have been operated as a unit.

14 S. W. Straus & Co., an Illinois corporator, and Nomis-Suarts Corporation, a Delaware corporation, control the ownership of the properties conveyed by the aforesaid trust indentures, subject to certain encumbrances including taxes and said trust indentures.

It is anticipated that the properties will be sold in the future to the highest bidder.

It is unlikely that any adequate bid will be made at the sales by any outside interest and it will probably be necessary that the depositors of first mortgage bonds be protected by the purchase of the properties at the foreclosure sales on their behalf. The Committees intend to bid at the foreclosure sales and have adopted the following Plan for the reorganizaiton of the properties:

1. Title to the properties hereinbefore specified, shall be held by a corporation (hereinafter referred to as the "New Corporation"), organized under the laws of the State of Illinois, with an authorized capital consisting of common stock of such number of shares, with or without par value, as shall be specified by counsel for the Committees.

2. All of the authorized common stock of the New Corporation shall be issued to three (3) trustees (hereinafter referred to as the "Trustees") to be selected by the Committees. Trust certificates representing ninety per cent (90%) of the common stock of the New Corporation shall be issued to the depositors of first mortgage bonds. Each depositor of a bond or bonds of The Sovereign issue shall receive

15 a trust certificate representing one and one-quarter (1¼) shares of stock for each One Hundred Dollars ($100) in face amount of bonds deposited by him, and proportionate certificates for other amounts. Each depositor of a bond or bonds of The Sovereign Annex issue shall receive a trust certificate representing one (1) share of stock for each One Hundred Dollars ($100) in face amount of bonds deposited by

him, and proportionate certificates, for other amounts. Trust certificates representing seven and one-half per cent (7½%) of the common stock of the New Corporation shall be issued to the aforesaid S. W. Straus & Co. and trust certificates representing two and one-half per cent (2½%) of the common stock of the New Corporation shall be issued to the aforesaid Nomis-Suarts Corporation, in consideration of their causing title to be made available for the purposes hereof as aforesaid.

3. Straus Service Corporation, an Illinois corporation, shall be the agent and depositary of the Trustees and shall be entitled to the usual compensation for the performance of its duties. Any officer or employee of Straus Service Corporation, S. W. Straus & Co. or affiliated companies, or of American National Bank and Trust Company of Chicago, may also be a Trustee. The trust agreement providing for the appointment of Trustees and the issuance of trust certificates shall endure for a period of ten (10) years unless sooner terminated by a majority of the Trustees, or by instruments in writing executed by the holders of sixty-six and two-thirds per cent (66⅔%) in amount of outstanding trust certificates. In the event of the death, resignation, incapacity to act or removal of any of the Trustees, then the remaining Trustee or Trustees shall fill such vacancy. The Trustees shall be entitled to be recompensed for their expenses, and shall receive reasonable compensation for their services. The trust agreement shall be in such form as shall be satisfactory to the Committees. The fees and expenses of the Trustees and of the agent and depositary of the Trustees shall be paid by the New Corporation.

4. The New Corporation shall, by agreement satisfactory to the Committees, indemnify and agree to save the trustees under the aforesaid trust indentures harmless from any income tax liability which may have been incurred by the said trustees during the period of the trustees' operation of the properties, and shall also indemnify and save said trustees harmless from any and all other claims against said trustees arising out of the trustees' operation of the properties. The New Corporation shall further indemnify the Committees against any and all taxes, assessments and other governmental charges which may be levied or assessed against them in connection with the reorganization.

5. The New Corporation shall acquire title to the mortgaged property above described, not only by conveyance but also through the foreclosure proceedings, so that the title of the New Corporation may be free and clear of all liens and encumbrances whatsoever except taxes at the date of the completion of the reorganization. The trustees under the aforesaid trust indentures have accumulated certain funds out of the net income from the properties during the period of the trustees' operation. It is anticipated that prior to the completion of the reorganization, the trustees will have ac-
17 quired certain additional funds. The share of the funds in the trustees' hands as of the date of the consummation of reorganization to which depositing bondholders are entitled, shall be applied toward the payment of the expenses of foreclosure, reorganization and other expenses incident to the consummation of the reorganization. An estimate of the said expenses is attached hereto marked Exhibit "A". The New Corporation shall expressly assume and agree to pay all of the expenses of the foreclosure, reorganization and such other expenses hereinbefore provided for not paid out of funds derived from the trustees. Said unpaid expenses shall be paid by the New Corporation before any dividends are declared upon the stock of the New Corporation, but if a mortgage is obtained as hereinafter mentioned, dividends may be declared out of excess earnings not required to meet said mortgage requirements. At the request of the parties to whom said sums are payable, the New Corporation shall execute its note or notes to evidence the indebtedness for such expenses, and shall secure the payment of such notes by first mortgage trust deed. The parties hereto shall endeavor to obtain a new first mortgage for the purposes of paying the unpaid expenses of the foreclosure and reorganization, and for the purpose of paying other expenses incident to the reorganization, including taxes.

6. The trust agreement pursuant to which the trust certificates will be issued to the depositing bondholders, shall provide that the Trustees shall not vote in favor of a sale or conveyance of the property by the New Corporation, without first mailing to the certificate holders a written sum-
18 mary of the terms of the proposed sale, and if the Trustees shall receive, within twenty (20) days from the date of such mailing, the written dissent of the holders of thirty-three and one-third per cent (33⅓%) of such trust certificates from the terms of said proposed sale, the Trustees, shall

have no right to vote in favor of consummating such proposed sale.

7. This Plan of Reorganization is conditioned upon acquisition of the above described properties by the Committees or their nominee. The Committees shall have full and absolute discretion to determine what amounts shall be bid at the foreclosure sale.

8. The management of the property shall be subject to the supervision of the Trustees.

9. This shall be deemed a Plan of Reorganization within the provisions of the Deposit Agreements hereinbefore mentioned, which Deposit Agreements are hereby referred to and made a part hereof.

The Committee shall have full discretion to determine if and when a sufficient amount of the first mortgage bonds has been deposited with them to make it advisable to declare this Plan of Reorganization effective.

10. It is understood that the Committees have executed this Plan solely as Committees and not as individuals, and only pursuant to and in connection with the powers granted to the Committees by the terms of said Deposit Agreements respectively dated April 21, 1931 and January 23, 1931, subject to all of the rights of depositing bondholders set forth in said Deposit Agreements. It is further understood 19 that no individual member of said Committees shall be deemed personally bound by any covenant, undertaking or agreement herein, and no personal liability or personal responsibility is assumed by, nor at any time shall be asserted or enforced against the members of the Committees, either individually or collectively, by reason of any of the provisions hereof, or by reason of any action or non-action taken or permitted to be taken pursuant to the provisions hereof.

In order to evidence their adoption of the foregoing Plan of Reorganization, the Committees have caused said Plan to be executed pursuant to resolution of said Committees adopted at a meeting thereof duly called and held on February 3, 1933.

THE SOVEREIGN FIRST MORTGAGE BONDHOLDERS' COMMITTEE,
By SIDNEY H. KAHN.

THE SOVEREIGN ANNEX FIRST MORTGAGE BONDHOLDERS' COMMITTEE,
By SIDNEY H. KAHN.

EXHIBIT "A"

20 UNPAID EXPENSES OF FORECLOSURE AND REORGANIZATION OF THE SOVEREIGN

Foreclosure Expenses

Trustee's fees	$3,500.00
Fees of attorneys for Trustee	9,500.00
Master's fees and estimated court costs	4,375.00

Reorganization Expenses

Expenses and compensation of Committee, 1½% of the face amount of deposited bonds, plus out of pocket expenses, estimated	$7,872.00
Depositary's fee for first year, ¾ of 1% of amount of deposited bonds; for second and third years, ¼ of 1% plus out of pocket expenses, estimated	5,248.00
Counsel for Committee	3,500.00
Organization of new corporation, printing and distribution of new securities, stamp taxes, out of pocket expenses, blue sky guaranty policy, estimated	1,750.00

21 UNPAID EXPENSES OF FORECLOSURE AND REORGANIZATION OF THE SOVEREIGN ANNEX

Foreclosure Expenses

Trustee's fees	$ 4,000.00
Fees of attorneys for Trustee	10,500.00
Master's fees and estimated court costs	4,635.00

Reorganization Expenses

Expenses and compensation of Committee, 1½% of the face amount of deposited bonds, plus out of pocket expenses, estimated	$11,308.50
Depositary's fee for first year, ¾ of 1% of amount of deposited bonds; for second and third years ¼ of 1%, plus out of pocket expenses, estimated	7,539.00
Counsel for Committee	3,500.00
Organization of new corporation, printing and distribution of new securities, stamp taxes, out of pocket expenses, blue sky and guaranty policy, estimated	1,750.00

22 ADDITIONAL EXPENSES OF THE SOVEREIGN AND THE SOVEREIGN ANNEX

Taxes, estimated $69,799.47
Non-depositors ....

23 AMENDMENT TO PLAN OF REORGANIZATION OF THE SOVEREIGN AND SOVEREIGN ANNEX.

THIS AGREEMENT made and entered into this 26 day of February, 1935, by and between

GEORGE W. ROSSETTER
JAY C. McCORD and
SIDNEY H. KAHN,

constituting The Sovereign First Mortgage Bondholders' Committee under Deposit Agreement dated April 21, 1931, first party; and

GEORGE W. ROSSETTER
JAY C. McCORD and
SIDNEY H. KAHN,

constituting the Sovereign Annex First Mortgage Bondholders' Committee under Deposit Agreement dated January 23, 1931, second party (which said Committees are hereinafter sometimes referred to as the "Committees"); and

KENMORE-GRANVILLE HOTEL COMPANY,

an Illinois corporation, third party (hereinafter sometimes referred to as the "Owner"); and

S. W. ASSETS LIQUIDATION CORPORATION,

a Delaware corporation, fourth party,

WITNESSETH:

The Committees heretofore under date of February 3, 1933, jointly entered into a Plan of Reorganization of The Sovereign and the Sovereign Annex, reference to which said Plan of Reorganization is hereby made for a specific description of the properties therein referred to, the issues of first mortgage bonds affected by the Plan and the terms and conditions

of the reorganization of the financial structure of the respective properties. Said Plan of Reorganization was on or about July 13, 1933 submitted to The Sovereign and the Sovereign Annex First Mortgage Bondholders and has been approved by the holders of approximately 94% of the outstanding first mortgage bonds of The Sovereign and the holders of approximately 95% of the outstanding first mortgage bonds of the Sovereign Annex. Thomas D. Nash, County Treasurer and Ex-Officio County Collector of Cook County, Illinois, was on or about August 14, 1934 appointed Tax Receiver of both The Sovereign and the Sovereign Annex properties and possession of said properties was on or about said date surrendered by the respective Trustees under the Trust Indenture to said Tax Receiver; that Robert M. Sweitzer, as the County Treasurer and Ex-Officio County Collector of Cook County, is presently in possession of said properties as Tax Receiver. The interest of S. W. Straus & Co., referred to in said Plan of Reorganization and as hereinafter more specifically described, has been acquired by S. W. Assets Liquidation Corporation. Title to the Sovereign and Sovereign Annex properties is in the Owner who has assumed and agreed to pay the bonded indebtedness secured by the respective First Mortgage Trust Indentures. An involuntary petition was heretofore filed on February 4, 1935 in the District Court of the United States, for the Northern District of Illinois, Eastern Division, asking for the reorganization of the Owner under Section 77B of the Bankruptcy Act, as amended, and said Owner has filed an answer to said proceedings indicating its desire for a reorganization, pursuant to the provisions of said Plan of Reorganization or such amendments or modifications thereof as may be made and accepted by the parties in interest, subject to the approval of said District Court. Said petition has been approved as properly filed under Section 77B of said Bankruptcy Act. The parties hereto desire to ratify, approve and confirm the Plan of Reorganization dated February 3, 1933, except as hereinafter specifically modified, amended and supplemented, so that said Plan of Reorganization, as hereinafter amended, modified and supplemented, will in all respects conform to the provisions of Section 77B of the Bankruptcy Act as amended, and shall constitute a Plan of Reorganization within the meaning and purview of said Section 77B of the Bankruptcy Act.

NOW, THEREFORE, in consideration of the premises, it is agreed by and between the parties as follows:

1. That the parties hereto, who were not parties to the Plan of Reorganization dated February 3, 1933, do hereby ratify, approve and confirm said Plan dated February 3, 1933, in all respects, except as herein amended, modified and supplemented, and the execution of this agreement by said parties shall be deemed and considered to constitute them parties to said Plan dated February 3, 1933, which Plan is hereby incorporated by reference in this agreement as if fully set forth herein.

2. That said Plan of Reorganization dated February 3, 1933 is hereby amended, modified and supplemented as follows:

3. Paragraph 2 of said Plan of Reorganization is hereby amended to read as follows:

"At a time to be determined by the Committees, subject to the approval of said District Court, a referendum shall be conducted of said first mortgage bondholders of both issues to determine whether they desire to have the stock of the new corporation, to be issued for their benefit, deposited under a trust agreement, and in the event 51% or more in amount of said first mortgage bondholders vote against the creation of a trust, then the stock of the new corporation shall be issued directly to the parties hereinafter in this paragraph named in proportion to their respective interests, as hereinafter defined; otherwise, all of the common stock of the new corporation to be outstanding shall be issued to three (3) trustees (hereinafter referred to as the "Trustees") to be selected by the Committees, subject to the approval of the court. Trust certificates representing 90% of the common stock of the new corporation shall then be issued to the holders of unsubordinated first mortgage bonds. Each holder of an unsubordinated bond or bonds of The Sovereign issue shall receive a trust certificate representing 1¼ shares of stock for each $100.00 in face amount of bonds held by him and a proportionate certificate for other amounts. Each holder of an unsubordinated bond or bonds of the Sovereign Annex issue shall receive a trust certificate representing 1 share of stock for each

$100.00 in face amount of bonds held by him and proportionate certificates for other amounts. Trust certificates representing 7½% of the common stock of the new corporation shall be issued to S. W. Assets Liquidation Corporation in payment of subordinated and unsubordinated advances made by S. W. Straus & Co. amounting in the aggregate to approximately $322,441.25 on account of bonds and/or coupons of The Sovereign and Sovereign Annex bond issues (S. W. Assets Liquidation Corporation having acquired the interest of S. W. Straus & Co. in such subordinated and unsubordinated advances). Trust certificates representing 2½% of the common stock of the new corporation shall be issued to Nomis-Suarts Corporation, which corporation owns all of the capital stock of the Owner in consideration of said Nomis-Suarts Corporation causing the Owner to make the title to the properties available for the purpose hereof as aforesaid and the cancellation of the indebtedness of the Owner to said Nomis-Suarts Corporation in the amount of approximately $75,371.45."

4. Paragraph 3 of said Plan of Reorganization is hereby amended to read as follows:

"The Committee shall designate the agent of the Trustees, subject to the approval of the court, and the agent shall be entitled to compensation for the performance of its duties not to exceed the usual charges by banks and trust companies in Chicago for such services. The trust agreement providing for the appointment of Trustees and the issuance of trust certificates shall endure for a period of ten years, subject to termination in the manner herein described. Within sixty days prior to
26 the expiration of two years from the date of such agreement, the Trustees shall call a meeting of all trust certificates holders, or in lieu of such meeting, the Trustees shall conduct a referendum by mail of all trust certificate holders for the purpose of determining the wishes of the certificate holders as to the termination of the trust. In the event that a majority in amount of the holders of the trust certificates vote in favor of the termination of the trust, either in person or by proxy, at such meeting or through such referendum, then and in such case, the

trust shall be dissolved as of the expiration of said two-year period and the stock of the new corporation shall be issued pro rata to the then holders of the trust certificates. If the holders of a majority in amount of trust certificates do not vote in favor of the termination of the trust, then the trust shall continue. In such case, prior to the expiration of the succeeding two-year period, a similar meeting or referendum shall be held to determine whether the trust shall be terminated as of the expiration of the second two-year period. Similar meetings or referenda shall be held prior to the expiration of each two-year period to determine whether the trust shall be terminated. In any event, the trust shall terminate at the expiraton of the original ten-year period. The trust may be terminated at any time by a majority of the Trustees without any action by the holders of the trust certificates.

"The Trust Agreement shall provide that the holder of a trust certificate may be permitted to withdraw from the trust the proportionate share or shares of stock held by the Trustees under the Trust Agreement represented by his certificate, upon surrender of his said trust certificate to the Trustees, and the payment by said certificate holder of a reasonable transfer fee and any stamp tax required by law to be paid in connection with such transfer.

"Any holder of trust certificates shall have the right, at any reasonable business hour, to inspect the corporate records and books of account of the new corporation.

"The Trustees shall be entitled to be recompensed for their expenses and shall receive reasonable compensation for their services, which shall not exceed in the aggregate 1% of the annual gross income derived from the rental of rooms in the property. The trust agreement shall be in such form as shall be satisfactory to the Committee and be approved by the court and shall provide that the Trustees report to the certificate holders annually or oftener. The fees and expenses of the Trustees and of the agent of the Trustees shall be paid by the new corporation. No salaries shall be allowed or paid to officers or directors of the new corporation as such so long as
27 the trust agreement remains in effect. The surviving

Trustees shall have the right to fill any vacancy among the Trustees, to remove their agent and to appoint a successor agent. The trust agreement shall provide that any of the Trustees may be removed and a successor Trustee appointed at any time upon the written direction of the holders of a majority in amount of the trust certificates."

5. Paragraph 5 of the Plan of Reorganization is hereby amended by eliminating the first six sentences thereof and by inserting in lieu thereof the following:

"The new corporation shall acquire title to the mortgaged properties above described to the end that at the completion of the reorganization the title in the new corporation shall be free and clear of all liens and encumbrances whatsoever, except leases, if any, then existing, and real estate and other taxes, if any. The new corporation shall assume and agree to pay the reorganization expenses hereinafter referred to and these expenses shall be paid either out of funds available at the time of the completion of the reorganization, being funds, if any, accumulated out of the net income from the properties during the time that the Trustees under the respective indentures were in possession of said properties and additional funds, if any, accumulated by any bankruptcy trustee or debtor in possession or otherwise from the operation of the properties, or out of subseqent income derived by the new corporation, or out of the proceeds of any new first mortgage as hereinafter provided.

"Subject to the approval of the court, allowance shall be made to cover the following:

(a) Compensation to members of the Committees;

(b) Reimbursement to the Committees for the amount to be paid by them to Securities Service Corporation for secretarial and other services rendered and to be rendered to the Committees, plus out-of-pocket expenses;

(c) Charge of Depositary for the Committees, plus out-of-pocket expenses;

(d) Compensation of counsel for the Committees;

(e) Compensation of counsel for the Corporation;

(f) Compensation of counsel for the petitioning creditors.

"In addition, the new corporation shall assume the expenses and charges in the foreclosure proceedings, including the Trustee's fees, unpaid balance of fees allowed to counsel for the Trustees, and unpaid balance of Master's fees. There shall also be allowed and paid the actual expenses to be incurred in connection with the organization of the new corporation, printing the new Trust Agreement and the new securities, stamp taxes, title guaranty expense, court costs in the bankruptcy proceeding, and other similar charges."

28 6. Paragraph 7 of said Plan of Reorganization shall be deleted and in lieu thereof there shall be substituted the following:

"The new corporation shall take title to the property subject to unpaid general taxes and assessments. The Plan of Reorganization shall not affect any persons, firms or corporations having claims against the debtor, the mortgage trustee or the bankruptcy trustee for materials and supplies furnished to the properties and which remain unpaid at the time of the consummation of the reorganization or for accrued and unpaid payroll in connection with the operation of the properties. All such claims shall be expressly assumed by the new corporation."

7. Paragraph 8 of said Plan of Reorganization shall be amended to read as follows:

"The management of the properties shall be subject to the supervision of the Trustees in the event a trust is created as hereinbefore provided. In the event that a trust is not created, the management of the properties shall be determined by the Board of Directors of the new corporation."

8. Paragraph 9 of the Plan of Reorganization shall be amended by deleting therefrom the second sentence.

9. There shall be added to the Plan of Reorganization the following:

"Unless all of the persons having any right, title, interest, lien or claim in or to the above mentioned properties consent to and approve of the Plan of Reorganization or accept the new securities hereinabove provided for, it is distinctly understood and agreed that the approval of the Plan of Reorganization by the first mortgage bondholders and other parties hereto, consenting thereto, and/or the acceptance by the first mortgage bondholders and other parties hereto of the new securities hereinabove provided for, are expressly conditional upon the entry of a valid order or decree confirming or approving the Plan of Reorganization, binding, upon direct or collateral attack, upon all persons who have any right, title, interest, lien or claim in or to the above mentioned properties, whether or not such persons consented to said Plan of Reorganization or whether or not they accepted any benefit thereunder. If for any reason the order or decree hereinabove referred to shall be reversed, set aside or held void or invalid, all of the bondholders and other parties hereto consenting to the Plan of Reorganization or taking any benefit thereunder shall be restored to their former right, title, lien or claim in and to said properties as such right, title, lien or claim existed prior to the entry of such order or decree; pro-
29 vided, however, that the reversal, setting aside or invalidity of such order or decree shall not prohibit the parties to the reorganization plan dated February 3, 1933 from consummating said Plan of Reorganization through the foreclosure proceedings originally contemplated."

10. Exhibit "A" attached to said Plan of Reorganization shall be deleted.

11. The Plan of Reorganization dated February 3, 1933 and this amendment shall be construed together as the Plan of Reorganization and shall constitute a Plan of Reorganization of the Owner within the meaning of Section 77B of the Bankruptcy Act as amended, and all statements and provi-

sions contained in the preamble or any part of the original Plan which are inconsistent with the preamble and provisions hereof are deemed to be superseded. Except as hereby expressly modified and superseded, said agreement of February 3, 1933, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed the day and year first hereinabove set forth.

THE SOVEREIGN FIRST MORTGAGE BONDHOLDERS' COMMITTEE,

By .....

SOVEREIGN ANNEX FIRST MORTGAGE BONDHOLDERS' COMMITTEE,

By .....

S. W. ASSETS LIQUIDATION CORPORATION,

By .....

Its .....

Attest:

.....

Secretary

KENMORE-GRANVILLE HOTEL COMPANY,

By .....

Its President

Attest:

.....

Secretary

30 And afterwards, to wit, on the 27th day of February, 1935, being one of the days of the regular February term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable John P. Barnes, District Judge, appears the following entry, to-wit:

31 IN THE DISTRICT COURT OF THE UNITED STATES.

* * (Caption—58701) * *

ORDER.

This cause coming on to be heard upon the verified petition of George W. Rossetter, Jay C. McCord and Sidney H. Kahn, jointly, as the Sovereign Annex First Mortgage Bondholders' Committee constituted under Deposit Agreement dated January 23, 1931, on behalf of the holders of certain of the Sovereign Annex 6½% First Mortgage Bonds dated August 1, 1922, and as The Sovereign First Mortgage Bondholders' Committee constituted under Deposit Agreement dated April 21, 1931, representing the holders of certain of The Sovereign 6% First Mortgage Bonds dated November 1, 1919, and the court having been fully advised in the premises.

NOW, THEREFORE, IT IS ORDERED:

That leave be and it is hereby given said George W. Rossetter, Jay C. McCord and Sidney H. Kahn, jointly, as the Sovereign Annex First Mortgage Bondholders' Committee, constituted under Deposit Agreement dated January 23, 1931, on behalf of the holders of certain of the Sovereign Annex 6½% First Mortgage Bonds dated August 1, 1922, and as The Sovereign First Mortgage Bondholders' Committee, constituted under Deposit Agreement dated April 21, 1931, represent-
32 ing the holders of certain of The Sovereign 6% First mortgage Bonds dated November 1, 1919, to file their petition proposing a plan of reorganization *instanter*.

3. That for the purpose of the plan of reorganization proposed in this proceeding and the acceptance thereof, the creditors and stockholders of the Debtor be divided into the following classes according to the nature of their respective claims and interests:

Class A:

(1) Melvin L. Straus, as Trustee under that certain Trust Deed and Chattel Mortgage dated November 1, 1919 and recorded in the office of the Recorder of Deeds of Cook County, Illinois, as Document No. 6699724, for the benefit of himself and his attorneys for services rendered in the foreclosure proceedings case No. B-219230, as allowed by the foreclosure decree, together with court costs and Master's fees allowed by said decree; Samuel J. T. Straus, as Trustee under that certain Trust Deed and Chattel Mortgage dated August 1, 1922 and recorded in the office of the Recorder of Deeds of Cook County, Illinois, as Document No. 7717203, for the benefit of himself and his attorneys for services rendered in the foreclosure proceedings case No. B-218773, as allowed by the foreclosure decree, together with court costs and Master's fees allowed by said decree.

(2) Holders of unsubordinated, outstanding and unpaid first mortgage bonds and interest coupons secured by the Trust Deed and Chattel Mortgage to Melvin L. Straus, as Trustee, dated November 1, 1919 and recorded as Document No. 6699724 as aforesaid; holders of unsubordinated, outstanding and unpaid first mortgage bonds and interest coupons secured by the Trust Deed and Chattel Mortgage to Samuel J. T. Straus, as Trustee, dated August 1, 1922 and recorded as Document No. 7717203 as aforesaid.

Class B:

Holders of subordinated first mortgage bonds and interest coupons secured by the Trust Deed and Chattel Mortgage recorded as Document No. 6699724 as aforesaid; holders of subordinated first mortgage bonds and interest coupons secured by the Trust Deed and Chattel Mortgage recorded as Document No. 7717203 as aforesaid.

Class C:

General Creditors.

Class D:

Holders of the Common Stock of the Debtor; that the creditors classified above represent all creditors of the Debtor affected by said plan of reorganization; that in addition to

the creditors classified above there are unpaid general taxes levied and assessed against the property and premises involved herein for the years 1929, 1930, 1931, 1932 and 1933.

4. The claims of creditors and stockholders of the Debtor shall be filed or evidenced on or before March 30, 1935, and unless so filed or evidenced on or before the date last aforesaid no claim or interest may participate in the plan of reorganization proposed in this proceeding except an order of this court for cause shown, and shall be filed and evidenced in the following manner:

(a) Proofs of interest of stockholders of the Debtor shall consist of a statement in writing, signed and verified by the stockholders, setting forth the number of shares held, the class of stock and the number and date of the
34 stock certificate or certificates, and there shall be attached to any such claim the original or a photostatic copy of such stock certificate issued in the name of such claimant, or a verified statement of the Debtor admitting the interest of the stockholders therein set forth, in which case it shall not be necessary to attach the stock certificates or photostatic copies thereof;

(b) Melvin L. Straus, as Trustee under the Trust Deed and Chattel Mortgage Document No. 6699724 aforesaid, is authorized to file a verified proof of claim in this cause on behalf of holders of all of the aforesaid first mortgage bonds and the interest coupons appertaining thereto without attaching to such claim the originals of such bonds and/or interest coupons; that any claim with respect to such bonds and/or coupons, subordinated or unsubordinated, which shall be filed by the owners and holders thereof shall, when such claims are allowed and approved, reduce pro tanto any claim filed in this proceeding by said Trustee;

(c) Samuel J. T. Straus, as Trustee under the Trust Deed and Chattel Mortgage Document No. 7717203 aforesaid, is authorized to file a verified proof of claim in this cause on behalf of holders of all of the aforesaid first mortgage bonds and the interest coupons appertaining thereto, without attaching to such claim the originals of such bonds and/or interest coupons; that any claim with respect to such bonds and/or coupons, subordinated or

unsubordinated, which shall be filed by the owners and holders thereof shall, when such claims are allowed and approved, reduce pro tanto any claim filed in this proceeding by said Trustee;

(d) The claims of creditors of the Debtor in Class A and Class B shall be filed or evidenced by filing in this cause a verified proof of claim duly signed and verified by such creditors, setting forth the claim, the consideration therefor and whether any, and if so, what securities of the Debtor are held therefor, and whether any, and if so, what payments have been made thereon, and whether any, and if so, what setoffs and counterclaims to the same exist, and that the sum claimed is justly owed from the Debtor to the creditor;

(e) Bonds and interest coupons evidencing the claims of creditors in Class A and Class B, unless lost or destroyed, shall be deposited with American National Bank and Trust Company of Chicago, which is hereby designated as the Depositary by the Court, and if the bonds or coupons are lost or destroyed, a statement of such fact and the circumstances of such loss or destruction shall be filed under oath with proof of claim. Said American National Bank and Trust Company of Chicago shall file herein on or before the 9th day of April, 1935, its certificate certifying the numbers and amounts of bonds and interest coupons deposited with it and the names of the persons so depositing the same. The fees and expenses of said Depositary shall be paid as part of the costs of administration. The Bondholders' Committee in filing claims for bonds on deposit with its Depositary, may in lieu of filing with said claims the bonds so on deposit, file its certificate or certificates of its Depositary certifying the amount and number of bonds and interest coupons which have been deposited with its Depositary.

Claims and interests of creditors and stockholders may be proved and represented by agents, committees, depositaries or other authorized representatives.

5. That all proofs of claims and interests of creditors and stockholders of the Debtor and objections to said proofs of claims and interests provided to be filed herein as aforesaid shall be filed with Carl R. Chindblom, one of the Referees in

Bankruptcy of this Court to whom this cause is especially referred for the purpose of receiving said proofs of claims and interests of creditors and stockholders of the Debtor, and objections to said proofs of claims and interests.

6. That said Carl R. Chindblom shall prior to the opening of court on April 9th, 1935, report to the court the names of all persons filing proofs of claims or interests herein, the class or classes to which said claims or interests belong and the amounts thereof, together with a statement as to what, if any, objections to any of said proofs of claims or interests have been filed.

7. That all claims and interests of creditors and stockholders of the Debtor duly filed or evidenced within the time and in the manner hereinabove specified, shall in due course be allowed by this court without taking further proofs thereof, unless written objections thereto shall be filed by the Debtor or other parties in interest on or before April 9th, 1935, in which event the claims or interests to which objections shall be made, shall be proved before this court in such manner as this court may hereafter order and direct.

8. That this cause stand continued to the 9th day of April, 1935, at 10:00 o'clock A.M., Central Standard Time, before the Honorable John P. Barnes, at which time (or at any adjournment thereof) the Honorable John P. Barnes, or any other judge sitting in his place and stead, shall consider any motion for confirmation and approval of the plan of reorganization and any objections theretofore filed to said plan; that all creditors and stockholders of the Debtor may accept said plan of reorganization by causing to be filed written acceptances with the Clerk of the Court executed in person or by a duly authorized agent or attorney, at any time or times up to the time or times of the confirmation of said plan of reorganization; that the acceptance of the plan of reorganization by said Committee on behalf of the bondholders represented by them, may be evidenced by one document executed by the members of said Committees or their duly authorized agent or attorney; that creditors and stockholders of the Debtor may file written objections to said plan of reorganization on or before April 6, 1935.

9. The Debtor shall cause to be mailed a notice of said hearing containing a summary of the provisions of this order,

to all creditors affected by the plan of reorganization and to all stockholders of the Debtor, within fifteen (15) days from the date hereof, and shall mail a copy of the plan of re-
37 organization or a summary thereof to all creditors in Class A and Class B who have not heretofore assented to the plan of reorganization; that said Debtor shall cause a notice of said hearing containing a summary of the provisions of this order to be published at least once a week for two consecutive weeks in a newspaper of general circulation published at Chicago, Illinois, the first of said publications to be made within fifteen (15) days from the date hereof. Proof of the mailing and publication of said notice within the time and in the manner herein specified, may be made by filing with the Clerk of this Court an affidavit by any duly authorized agent of the Debtor or said Committee familiar with the facts, or by filing a certificate of publication by the publisher of the newspaper in which such notice is published, attaching to such affidavit or certificate, a copy or copies of the notice so mailed and published; all costs and charges incurred in connection with the preparation of the lists and the printing, mailing and publication of said notice, plan, summary and forms of acceptance, shall be paid out of available funds.

10. The Court reserves jurisdiction to make, from time to time, such other and further orders approving, extending, limiting or otherwise modifying this order as to the Court may at any time or times seem proper.

Enter:

BARNES,
Judge.

Dated 2/27/35.

38 And on the same day, to-wit: On the 27th day of April, 1935, came the Referee and filed in the Clerk's office of said Court a certain Supplemental Report in the words and figures following, to-wit:

39 IN THE DISTRICT COURT OF THE UNITED STATES.
* * (Caption—58701) * *

SUPPLEMENTAL REPORT OF CARL R. CHINDBLOM REFEREE IN BANKRUPTCY, AS SPECIAL MASTER, ON THE FILING AND CLASSIFICATION OF CLAIMS AND INTERESTS OF CREDITORS AND STOCKHOLDERS AND ON OBJECTIONS TO PROOFS OF SUCH CLAIMS OR INTERESTS.

To the Honorable John P. Barnes, Judge of the District Court of the United States, for the Northern District of Illinois, Eastern Division, in Bankruptcy Sitting:

Honorable Sir:

On April 8, 1935, I filed a report in the above matter upon the special reference contained in the order of your Honor of February 27, 1935 that proofs of claims and interests of creditors and stockholders should be filed with me on or before March 30, 1935; that I should classify such claims and interests; that objections to such proofs of claims and interests should be filed with me, and that written objections to such proofs of claims and interests should be filed by the debtor or other parties in interest on or before April 9, 1935; and that I should make report of the aforesaid matters prior to the opening of court on April 9, 1935.

On April 9, 1935, an order was entered by the Honorable Philip L. Sullivan, one of the Judges of this Court, providing, *inter alia,* that the time for filing claims herein and objections, if any, to claims or to the confirmation of the plan of reorganization be extended to April 20, 1935.

Subsequent to the filing of my aforesaid report on April 8,
40 1935, three claims were filed herein and thereafter further claims and objections to the plan of reorganization and to the allowance of certain claims, theretofore filed, were filed with me, all of which I hereby report as supplemental to my said report of April 8, 1935.

ADDITIONAL CLAIMS FILED.

Class. A (2)

(d) Claims by individual owners and holders of bonds and interest coupons, under Trust Deed and Chattel Mortgage, Document No. 6699724, as follows:

Claim No.	Claimant	Certificate of Deposit No.	Bond No.	Principal of Bond	Documents Presented
18	J. Gold, Tarnopol, Flamm & Sideman, Attys. 134 N. La Salle St., Chicago, Ill.		918 959	$ 500.00 500.00	Bonds and Certificate of Deposit
19	R. Sandroff, Tarnopol, Flamm & Sideman, Attys. 134 N. La Salle St., Chicago, Ill.		1121 1635	500.00 1000.00	Certificate of Deposit
20	S. Isenberg, Tarnopol, Flamm & Sideman, Attys. 134 N. La Salle St., Chicago, Ill.		1498 1539 1540 1541 1542	1000.00 1000.00 1000.00 1000.00 1000.00	Certificate of Deposit
21	Jacob Meyerhoff, Shulman, Shulman and Abrams, Attys.	31246	B669 B670	100.00 100.00	None
22	Julius Meyerhoff, Shulman, Shulman and Abrams, Attys.	40504	645 714 727	100.00 100.00 100.00	None
23	Mrs. Anna Jacobson By J. Meyerhoff, her Agent, Shulman, Shulman and Abrams, Attys.		632	100.00	None
24	Mrs. Rae Mann By J. Meyerhoff, her Agent, Shulman, Shulman and Abrams, Attys.	564	705 708	Not Stated Not Stated	None None
25	Joseph Meyerhoff, By J. Meyerhoff, his Agent, Shulman, Shulman and Abrams, Attys.	587	663 664	100.00 100.00	None
26	John G. Pankin, Shulman, Shulman and Abrams, Attys.			500.00	None
27	Archie Clement and Marion Clement, 925 Cornelia Ave., Chicago, Ill.	179561	1527	1000.00	None

Claims by individual owners and holders of bonds and interest coupons, under Trust Deed and Chattel Mortgage, Document No. 7717203, as follows:

Claim No.	Claimant	Certificate of Deposit No.	Bond No.	Principal of Bond	Documents Presented
18	J. Gold, Tarnopol, Flamm & Sideman, Attys. 134 N. La Salle St., Chicago, Ill.		1606 1298 1512 1513 1637 497	$1000.00 500.00 500.00 500.00 1000.00 500.00	Bonds and Certificate of Deposit
19	R. Sandroff, Tarnopol, Flamm & Sideman, Attys. 134 N. La Salle St., Chicago, Ill.		432 1326 1499	500.00 500.00 500.00	Certificate of Deposit
20	S. Isenberg, Tarnopol, Flamm & Sideman, Attys. 134 N. La Salle St., Chicago, Ill.		619 620	1000.00 1000.00	Certificate of Deposit
21	Jacob Meyerhoff, Shulman, Shulman and Abrams, Attys.	40232	390	1000.00	None
22	Julius Meyerhoff, Shulman, Shulman and Abrams, Attys.	784	353) 392)	1500.00	None
23	Mrs. Anna Jacobson, By J. Meyerhoff, her Agent, Shulman, Shulman and Abrams, Attys.		355 to) 389)	1500.00	None
24	Mrs. Rae Mann, By J. Meyerhoff, her Agent, Shulman, Shulman and Abrams, Attys.	40503	352) 391)	1500.00	None
25	Joseph Meyerhoff, By J. Meyerhoff, his Agent, Shulman, Shulman and Abrams, Attys.	801	388	1000.00	None

Objections to Claims.

On April 20, 1935, joint and several objections were filed by Anna Jacobson, Jacob Meyerhoff, John G. Pankin, Mrs. Rae Mann, Joseph Meyerhoff, and Julius Meyerhoff, by Shul-

man, Shulman and Abrams, attorneys for said objectors, verified by Meyer Abrams, one of said attorneys, to the following claims:

(a)	Class A (1)	Claim No. 17
(b)		Claim No. 16
(c)	Class A (2)	Claim No. 17
(d)		Claim No. 16
(e)		Claim No. 13
(f)	Class B	Claim No. 17
(g)		Claim No. 16
(h)	Class C	Claim No. 15

On April 22, 1935, objections were filed by William H. Melvin, by David K. Tone and Benjamin H. Black, his attorneys, without verification, also objecting to each and every of the said last mentioned claims, objected to by Anna Jacobson et al., as aforesaid.

Objections to Plan of Reorganization.

In the same documents with the aforesaid objections to claims, each of said group of objectors objected to the plan of reorganization. Said objections are identical, except that the objections of the aforesaid William H. Melvin contains additional and further objections to said plan of reorganization (not contained in the objections of the aforesaid Anna Jacobson et al.), such additional and further objections being contained in paragraphs 5, 6 and 7 of the objections filed by said William H. Melvin.

43 No further documents, than those shown in my original report of April 8, 1933, and in this supplemental report, have been filed with me in the above matter.

Documents Transmitted.

I transmit herewith all of the aforesaid claims and objections, filed with me as aforesaid.

Respectfully submitted,

CARL R. CHINDBLOM,
Referee in Bankruptcy, acting as Special Master.

Dated, Chicago, Illinois, April 27, 1935.

I HEREBY CERTIFY that I have spent in excess of three hours of time in examination of the aforesaid claims and documents and in preparation of this report in the above matter and that, in my opinion, a reasonable and customary fee for my services in the said matter is the sum of $47.50, itemized as follows:

Commission for filing 10 claims	$ 2.50
Other services as above stated	45.00
	$ 47.50

I HEREBY CERTIFY that, in my opinion, a reasonable and proportionate charge for clerical and stenographic services in the above matter, as shown by the attached expense sheet, is $8.80. I therefore respectfully request that a total compensation of $56.30 be allowed in the above matter, of which $47.50 is for services and $8.80 for expenses.

Respectfully submitted,

CARL R. CHINDBLOM,
Referee in Bankruptcy as Special Master.

Dated, Chicago, Ill., Apr. 27, 1935.

44 And on, to-wit, the 20th day of April, 1935, came Anna Jacobson, et al. by their attorneys and filed in the Referee's office of said court certain objections in the words and figures following, to-wit:

45 IN THE DISTRICT COURT OF THE UNITED STATES.
* * (Caption—58701) * *

OBJECTIONS OF ANNA JACOBSON, JACOB MEYERHOFF, JOHN G. PANKIN, MRS. RAE MANN, JOSEPH MEYERHOFF, JULIUS MEYERHOFF.

The joint and several objections of the foregoing objectors to the Plan of Reorganization as proposed by the Bondholders Protective Committee of each of the two bond issues described in the Plan by Shulman, Shulman and Abrams, their attorneys, which objections are as follows:

(1) It appears from the records in the case that a jurisdictional question was raised by one Nettie Meyer and that an appeal has been taken and prosecuted which is now pending

in the Circuit Court of Appeals for the Seventh Circuit, and it would prejudice the whole Trust Estate and the title to be derived from any reorganization in the event the said Nettie Meyer should succeed in her appeal and for the foregoing reasons all proceedings should stop pending the disposition of the appeal.

(2) That the Plan of the Committee is inequitable and is unfair for the reason that the interest of the bondholders will be exchanged for stock in a corporation holding control by the manipulators of the Plan, and the persons who have caused to sell the bonds to the public and have concealed material facts from them to their detriment will receive Ten Percent of the stock on parity with the other bond owners, which is greatly unfair.

46 (3) These objectors who are the owners of bonds as shown by their respective claims have deposited their bonds with the Depositary of the Committee because of the confidence they had in S. W. Straus & Co. and in its officers and its directors, but it is now revealed from the proceedings commenced by Nettie Meyer that the confidence was betrayed and they, therefore, repudiate the acts of the Committee, its agent and the persons who received their bonds by misrepresentation should not be entrusted with the promulgation of plans for future reorganization and they should not be allowed to be the representatives of these objectors as well as the representatives of the innocent bond purchasers who were induced to deposit their bonds under similar circumstances by concealment of the facts.

(4) That because of the matters and things alleged in the verified complaint of Nettie Meyer which is now a matter of record in this proceeding, due notice should be given to all bond owners of the matters contained in said complaint so that the bond owners themselves may appear in court and protect their rights.

(5) That the following claims should be disallowed:

(a)	Class A (1)	Claim No. 17
(b)		Claim No. 16
(c)	Class A (2)	Claim No. 17
(d)		Claim No. 16
(e)		Claim No. 13
(f)	Class B	Claim No. 17
(g)		Claim No. 16

All of the foregoing claims having been filed either by the Trustees or by the alleged Protective Committee, then such claims should be filed by the bond owners themselves after the disclosure of the real facts and the appointment of their proper attorneys to act in their behalf.

(h) Class C Claim No. 15

should be disallowed because the claimant, Nomis-Suartz Corporation, is a corporation organized and controlled by the officers and directors of S. W. Straus & Co. and such claim, if any, should be payable by them because of the matters
47 and things appearing in the complaint of Nettie Meyer which are hereby adopted by these objectors as incorporated herein and made a part hereof.

For the foregoing reasons objectors by Shulman, Shulman and Abrams, their attorneys, object to the Plan of Reorganization and ask that the Court may grant the proper relief.

SHULMAN, SHULMAN AND ABRAMS,
Attorneys for said objectors.

State of Illinois, }
County of Cook. } ss:

Meyer Abrams, being first duly sworn on oath deposes and says, that he is the duly authorized agent and attorney for the foregoing objectors, that he has read the foregoing objections prepared by him in their behalf and knows the contents thereof, and that he is of the opinion that they are well founded in point of law and are based on the matters and things which appear of record in this proceeding.

MEYER ABRAMS.

Subscribed and sworn to before me this 20th day of April, A. D. 1935.

YETTA MAILICK, (Seal)
Notary Public.

40 And on, to-wit, the 27th day of April, 1935, came the Objectors by their attorneys and filed in the Clerk's office of said court a certain Proposed Amendment to Plan in words and figures following, to-wit:

IN THE DISTRICT COURT OF THE UNITED STATES.
* * (Caption—58701) * *

PROPOSED AMENDMENT TO PLAN OF REORGANIZATION SUBMITTED BY ANNA JACOBSON, JACOB MEYERHOFF, JOHN G. PANKIN, MRS. RAE MANN, JOSEPH MEYERHOFF and JULIUS MEYERHOFF.

Now come objectors, Anna Jacobson, Jacob Meyerhoff, John G. Pankin, Mrs. Rae Mann, Joseph Meyerhoff and Julius Meyerhoff, by Shulman, Shulman and Abrams, their attorneys, and propose the following amendment to the Plan of Reorganization.

(1) That the court appoint disinterested persons as trustees of the properties of the Debtor upon suggestions of the bondholders or their counsel in such number as the court may think advisable to be vested with the full, legal and equitable title to the property and the rights of the beneficiaries shall be treated as personalty.

(2) That the trustees issue beneficial certificates to each first mortgage bond owner on the basis of one certificate for each $100.00 bond to be known as Class "A" certificates, and superior to all other classes.

(3) That the trustees issue class "B" certificates to all junior interests on the basis of one share for each $100.00 claim, subject and interior to class "A".

43 (4) That the trustees issue class "C" certificates to the stockholders, if any, of the Debtor on the basis of one certificate for each share subject and inferior to classes "A"' and "B".

(5) That the trust shall last for such number of years as the court may fix and during such term the trustees shall pay out of the income from the net proceeds after payment for operating expenses, taxes, insurance, etc. interest on class "A" not exceeding 6%, and the remainder, if any, on class "B" not exceeding 3%.

(6) At the expiration of the term of the trust the property is to be sold subject to the approval of the court, and the proceeds realized therefrom be paid first, to satisfy class "A"

in full; then the balance, if any, to satisfy class "B", and the remainder, if any, to be distributed to the holders of class "C".

(7) During the operation of the trust the court shall retain jurisdiction for the purpose of passing upon the Trustee's accounts and the allowance of fees.

(8) The trustees shall be vested with the right to enforce the liability of the defendants who are parties in the State Court proceedings for the benefit of class "A".

(9) The court is to make an appraisal of the value of the Debtor's property, and the parties liable for gross negligence be adjudged to pay whatever damages may be assessed against them in the State court proceedings, and to be applied in satisfaction of the difference between the appraised value and the amount due.

(10) All fees of the trustees in the foreclosure cases, the fees of the committees, and the Depositary, shall be disallowed.

(11) Notice of the proposed amendment to be given to all bondowners together with a statement of the facts involved in the State court proceedings so that they may avail themselves of their rights and vote upon this amendment to the plan.

(12) The court may reserve the question of fees of the several attorneys for future disposition.

Respectully submitted,

SHULMAN, SHULMAN & ABRAMS,
Attorneys for said objectors.

50 And afterwards, to-wit, on the 20th day of May, 1935, being one of the days of the regular May term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable John P. Barnes, District Judge, appears the following entry, to-wit:

51 IN THE DISTRICT COURT OF THE UNITED STATES.
* * (Caption—58701) * *

ORDER.

Pursuant to order of this court entered on February 27, 1935, this cause has come on to be heard on the motion of George W. Rossetter, Jay C. McCord and Sidney H. Kahn,

as The Sovereign First Mortgage Bondholders' Committee constituted under Deposit Agreement dated April 21, 1931 and as The Sovereign Annex First Mortgage Bondholders' Committee constituted under Deposit Agreement dated January 23, 1931, on behalf of certain holders of Sovereign 6% First Mortgage Gold Bonds and on behalf of certain holders of Sovereign Annex 6½% First Mortgage Gold Bonds which are secured by lien of first mortgage trust deeds upon the property here involved and upon the motion of the Debtor and of J. Gold, R. Sandroff and S. Isenberg who filed the creditors' petition herein for an order confirming and approving the plan of reorganization and amendment to the plan of reorganization filed herein by said committees and submitted to the creditors and stockholders of the Debtor and upon the objections to the said plan and amendment to said plan and to certain claims filed herein and for a further order authorizing and directing the Debtor and said committees to carry said plan of reorganization including said amendment to the plan of reorganization into effect;

And it appearing to the court:

(a) That the provisions of said order of February 27, 1935 with respect to the giving of notice and publication of this hearing and the mailing of a copy of said plan of reorganization or a summary thereof together with a copy of said notice have been complied with;

(b) That the provisions of the order entered on February 27, 1935 dividing the creditors and stockholders of the Debtor for the purpose of the plan of reorganization proposed in this proceeding and the acceptance thereof into classes according to the nature of their respective claims and interests, with respect to the giving of notice of such classification to creditors and stockholders of the Debtor and with respect to publication have been complied with.

(c) That by the order of this court entered herein on February 27, 1935, Carl R. Chindblom, one of the referees in bankruptcy of this court, was directed to report to the court the names of all persons filing proofs of claims or interests herein, the class or classes to which the said claims or interests belonged and the amounts thereof together with a statement as to what, if any, objections to any of the said proofs

of claims or interests have been filed; that the said Carl R. Chindblom has filed herein as a special master his report on the filing of and classification of claims and interests of creditors and stockholders and on objections to proofs of such claims and interests and his supplemental report thereon.

53 (d) A claim has been filed herein by Melvin L. Straus, trustee under trust deed securing the Sovereign 6% First Mortgage Gold Bonds on behalf of the holders of all outstanding and unsubordinated first mortgage bonds in the aggregate principal amount of $575,000; that pursuant to the order of this court said claim should be reduced to the extent of the claims filed by said Sovereign First Mortgage Bondholders' Committee and by individual bond owners; that said claim is numbered 17 and has been classified by the special master under Class A-2; that objections have been filed thereto;

(e) That a claim has been filed herein by Samuel J. T. Straus, trustee under the trust deed securing said Sovereign Annex First Mortgage Bonds on behalf of the holders of all outstanding and unsubordinated said first mortgage bonds in the aggregate principal amount of $798,000; that pursuant to the order of this court the said claim should be reduced to the extent of the claims filed by said Sovereign Annex First Mortgage Bondholders' Committee and by individual bond owners; that said claim is numbered 16 and has been classified by the special master under Class A-2; that objections have been filed to the said claim;

(f) A claim has been filed herein by George W. Rossetter, Jay C. McCord and Sidney H. Kahn, constituting the Sovereign First Mortgage Bondholders' Committee under Deposit Agreement dated April 21, 1931, on behalf of the holders
54 of $543,600 principal face amount of unsubordinated Sovereign 6% First Mortgage Bonds dated November 1, 1919; (that claims have been filed herein by certain individual holders of certificates of deposit of bonds deposited with said committee in the amount of $12,800.00); that said persons as The Sovereign Annex First Mortgage Bondholders' Committee constituted under Deposit Agreement dated January 23, 1931 have filed a claim herein on behalf of the holders and owners of $764,100 principal face amount of unsubordinated Sovereign Annex First Mortgage Bonds dated August 1, 1922; (that claims have been filed herein by certain individual hold-

ers of certificates of deposit of bonds deposited with said committee in the amount of $19,200.00); that the said claim of The Sovereign and Sovereign Annex Committees is numbered thirteen (13) and has been classified by the special master under Class A-2; that objections have been filed to the said claim;

(g) A claim has been filed herein by Melvin L. Straus trustee under the trust deed securing the Sovereign First Mortgage Bonds on behalf of the owner of certain due and unpaid subordinated bonds and certain outstanding, due and unpaid subordinated interest coupons, the said claim being in the total sum of $202,308.22 with interest thereon at the legal rate from and after December 11, 1931; that said claim is numbered seventeen (17) and has been classified by the special master under Class B; that objections have been filed thereto;

(h) A claim has been filed herein by Samuel J. T. Straus, as trustee under the trust deed securing the Sovereign Annex First Mortgage Bonds on behalf of the owner of certain due and unpaid subordinated bonds and certain outstanding, due and unpaid subordinated interest coupons and certain outstanding, due and unpaid unsubordinated interest coupons in the amount of $173,574.34, together with interest thereon at the legal rate from December 28, 1931; that the said
55 claim is numbered 16 and has been classified by the special master as of Class B; that objections have been filed to the said claim;

(i) A claim has been filed herein by Nomis-Suarts Corporation, a corporation, in the amount of $73,371.45, which claim is numbered 15 and has been classified by the special master under Class C; that objections have been filed thereto;

(j) That the said Sovereign First Mortgage Bondholders' Committee and Sovereign Annex First Mortgage Bondholders' Committee, respectively, as the holders and owners of $543,600 principal face amount of Sovereign First Mortgage Bonds and of $764,100 principal face amount of Sovereign Annex First Mortgage Bonds have on behalf of the said owners and holders filed their acceptance of the plan of reorganization as amended; that therefore the owners and holders of more than 66⅔% of said first mortgage bonds have accepted said plan of reorganization as amended;

(k) That the acceptance of the holders of all of the two hundred (200) shares of the capital stock of the Debtor to the plan of reorganization as amended has been filed herein; that acceptances of the respective owners of all the claims classified as Class B and as Class C by the special master have been filed herein;

56 (l) That the joint and several objections of Anna Jacobson, Jacob Meyerhoff, John G. Pankin, Mrs. Rae Mann, Joseph Meyerhoff and Julius Meyerhoff by Shulman, Shulman & Abrams their attorneys have been filed herein to the following claims:

(a)	Class A (1)	Claim No. 17
(b)		Claim No. 16
(c)	Class A (2)	Claim No. 17
(d)		Claim No. 16
(e)		Claim No. 13
(f)	Class B	Claim No. 17
(g)		Claim No. 16
(h)	Class C	Claim No. 15

that the document setting forth the said objections to said claims also contains objections by the said objectors to the plan of reorganization, as amended; that objections by William H. Melvin by David K. Tone and Benjamin H. Black, his attorneys have been filed herein to the above specified and enumerated claims and that the said objections have incorporated therewith objections to the plan of reorganization, as amended; that no objections other than those hereinabove set forth have been filed to the claims filed herein, to the classification of creditors or to the plan of reorganization as amended herein; THEREUPON—

THE COURT DOTH FIND, ORDER, CONSIDER, ADJUDGE AND DECREE as follows:

1. That this proceeding was instituted in good faith and was properly brought under the provisions of Section 77B of "An Act to Establish a Uniform System of Bankruptcy Throughout the United States" (hereinafter referred to as Section 77B), the Debtor being unable to meet its obligations as they matured.

57 2. The Debtor is not a utility subject to the jurisdiction of a regulatory commission and the provisions of subdivision (e) 2 of Section 77B do not apply.

3. That the report of Carl B. Chindblom, Referee in Bankruptcy, as special master, on the filing and classification of claims and interests of creditors and stockholders and on objections to proofs of such claims and interests and his supplemental report made pursuant to the order of this court be and the same hereby are approved and confirmed in all respects.

4. That the aforementioned objections of Anna Jacobson, Jacob Meyerhoff, John G. Pankin, Mrs. Rae Mann, Joseph Meyerhoff, Julius Meyerhoff and William H. Melvin to the claim of Melvin L. Straus, as trustee, on behalf of the holders of the outstanding, due and unsubordinated Sovereign First Mortgage Bonds found in Claim 17, which has been classified as Class A-2 be and they hereby are overruled; that the said claim in the aggregate principal amount of $575,000 is reduced to the extent of the claim filed by said Sovereign First Mortgage Bondholders' Committee in the amount of $543,600
58 and of the claims filed by individual bondholders in the amount of $1,100.00; that the said claim of Melvin L. Straus is hereby allowed in the amount of $30,300.00 and the said claims of individual bondholders are allowed in the amount of $1,100.00.

5. That the objections of the aforesaid objectors to the claim of Samuel J. T. Straus, as trustee, on behalf of the holders of the outstanding, due and unpaid Sovereign Annex First Mortgage unsubordinated bonds, which claim is found in Claim 16 and is classified under Class A-2 be and the same hereby are overruled; that the said claim is reduced to the extent of the claim of The Sovereign Annex Bondholders' Committee in the amount of $764,100 and of the claims filed by individual bondholders in the amount of $3,500.00; that the said claim of Samuel J. T. Straus as trustee is hereby allowed in the face principal amount of $30,400.00 and the claims of the said individual bondholders are allowed in the aggregate principal amount of $3,500.00.

6. That the objections of the aforesaid objectors to the claim of George W. Rossetter, Jay C. McCord and Sid-
59 ney H. Kahn as The Sovereign First Mortgage Bondholders' Committee on behalf of the holders and owners of Sovereign First Mortgage Bonds and as The Sovereign Annex First Mortgage Bondholders' Committee on behalf of the holders and owners of Sovereign Annex First Mortgage

Bonds, which claim is claim numbered 13 and classified as Class A-2 be and the same hereby are overruled; that the said claim as to Sovereign first mortgage bonds is in the amount of $543,600; that claims have been filed by individual holders of certificates of deposit of said bonds deposited with the said committee in the amount of $12,800.00; that the claim of the said committee and the claims of the said individual holders of certificates of deposit as to said Sovereign bonds are allowed, the aggregate of said allowances, however, not to exceed the sum of $543,600; that the said claim as to Sovereign Annex first mortgage bonds is in the amount of $764,100; that individual holders of certificates of deposit of said bonds deposited with the committee have filed claims in the amount of $19,200.00; that the claim of the committee and the claims of said individual holders of certificates of deposit on Sovereign Annex bonds are allowed, the aggregate of said allowances not to exceed the sum of $764,100.

7. That the objections of the aforesaid objectors to the claim of Melvin L. Straus, as trustee, on behalf of the owner of certain subordinated Sovereign bonds which claim is set forth in claim numbered 17 and is classified under Class B be and the same hereby are overruled and the said claim is hereby allowed; that the objections of the aforesaid objectors to the claim of Samuel J. T. Straus as trustee on behalf of the owner of certain subordinated Sovereign Annex bonds, which claim is set forth in claim numbered 16 and is classified under Class B be and the same hereby are overruled and the said claim is hereby allowed.

8. That the objections of the aforesaid objectors to the claim of Nomis-Suarts Corporation, filed herein as Claim 15 and classified under Class C be and the same hereby are overruled and the said claim is allowed.

9. That the objections of the aforesaid objectors filed herein to the claim of Melvin L. Straus, as trustee under the Sovereign Trust deed for trustee's fees and solicitors' fees, said claim being a part of Claim 17 and classified under Class A-1 be and the same hereby are reserved to the hearing of all claims for administration expenses; that the claim of Marguerite Gorman, executrix of the estate of George E. Gorman, deceased, which is numbered 14 and is classified under Class A-1 is also reserved for hearing and disposition at the same time.

10. That the objections of the aforesaid objectors to the claim of Samuel J. T. Straus as trustee under the Sovereign Annex trust deed for trustee's and solicitors'-fees contained in Claim numbered 16 and classified under Class A-1 be
61 and the same hereby are reserved to the hearing of all claims for administration expenses.

11. That the plan of reorganization as amended has been accepted in writing and such acceptances have been filed in this proceedings by or on behalf of creditors holding more than two-thirds in amount of each class whose claims have been allowed and would be affected by said plan of reorganization and by and on behalf of stockholders of the Debtor holding more than a majority of shares of each class as required by the provisions of Section 77B; that provisions of Section 77B relating to said plan of reorganization and the acceptance and confirmation thereof have been duly complied with to make the same effective and binding upon the Debtor and all of said bondholders and all creditors of the Debtor whether or not their claims have been filed.

12. That the Sovereign First Mortgage Bondholders' Committee and the Sovereign Annex First Mortgage Bondholders' Committee had authority to act in these proceedings and to accept the plan of reorganization as amended for and on behalf of the persons who deposited unsubordinated first mortgage bonds with said committees respectively.

13. That all amounts to be paid by the Debtor for expenses and services incident to the reorganization are subject to the approval of this court.

62 14. That the offer of the plan of reorganization and its acceptance are in good faith and have not been made or procured by any means or promises forbidden under said Section 77B.

15. That the Debtor is authorized by its charter and by applicable State and Federal laws to take all necessary steps to carry out the provisions of the said plan of reorganization as amended.

16. That on the motion of the court the said plan of reorganization as amended should be further amended and it hereby is amended as follows:

A. That paragraph numbered 2 on page 3 of the plan of reorganization be and it further is amended to the effect that two of the three trustees therein provided for to receive all of the authorized common stock of the new corporation shall be selected by the court and not by the committees;

B. That paragraph numbered 3 on page 4 of the plan of reorganization be and it is further amended so as to provide that the agent and depositary of the trustees therein provided for shall be designated by the court and that the said agent and depositary shall be entitled to such compensation for its duties not to exceed, however, the usual compensation, as shall be stated in a letter prepared and signed by such agent and depositary and by it filed, one copy with the new corporation and one copy with the court;

C. That paragraph numbered 4 on page 5 of the plan of reorganization shall be and it is amended to the effect that
63 the trustees therein mentioned shall not be indemnified and saved harmless by the new corporation from or against their bad faith;

D. That paragraph numbered 5 on pages 5 and 6 of the plan of reorganization be and it is further amended to the effect that a mortgage may be placed upon the property of the reorganized corporation for the purpose of paying taxes but during the time this court has jurisdiction over the trust to be created pursuant to the plan of reorganization and over the trustees from time to time acting under the trust agreement no mortgage shall be placed upon the said property for any other purpose except upon the order of this court; and further amended to the effect that all expenses of reorganization and of the foreclosure proceedings on the Sovereign First Mortgage Trust Deed and the Sovereign Annex First Mortgage Trust Deed that are not paid in cash shall be evidenced by certificates of the new corporation bearing 5% interest per annum, which certificates shall be so drafted that neither the said certificates nor the obligations thereof may be reduced to or converted into judgments;

E. That paragraph numbered 4 on page 3 of the amendment to the plan of reorganization of the Sovereign and Sovereign Annex be and it is amended so as to provide that the

agent of the trustees shall be designated by the court and not by the committee as therein now provided; and also so as to provide that the trustees therein provided for shall each receive in lieu of the compensation therein now provided for one-third of 1% of the annual gross income derived from the rental of the rooms of the said property or the sum of $300.00 whichever shall be less;

F. That paragraph numbered 5 of the amendment to the plan of reorganization be and it is amended so as to pro-
64 vide that a mortgage may be placed upon the property of the reorganized corporation for the purpose of paying taxes levied and assessed against the property but during the time this court has jurisdiction over the trust to be created pursuant to the plan of reorganization and over the trustees from time to time acting under the trust agreement no mortgage shall be placed upon the said property for any other purpose except upon the order of this court; and said paragraph is further amended to the effect that any unpaid expenses of reorganization or of the foreclosures shall be evidenced by certificates of the new corporation bearing interest at the rate of 5% per annum, which certificates shall be so drafted that neither the said certificates nor the indebtedness evidenced thereby may be reduced to or converted into judgments;

G. That the said plan of reorganization and the said amendment to the plan of reorganization be and they are further amended and modified so as to provide that all allowances for services rendered in the reorganization of the said property in this court, for services in and about the said foreclosure proceedings, for services for the said committees, for the depositary and for the attorneys, agents and servants of the same are subject to the approval of this court.

H. The said plan of reorganization as amended shall be and it is further amended so as to provide that in the event there is any cause or causes of action in the Debtor or in any person, firm or corporation for and in behalf of the Debtor such cause or causes of action shall be preserved and the same shall be assigned and passed on by the Debtor or by such person, firm or corporation in behalf of the Debtor to the new or reorganized corporation.

17. That the amendment to the plan of reorganization forming a part of Exhibit "C" attached to the joint intervening petition of the bondholders' committees herein does not materially or adversely affect the interests of any creditors or stockholders who have heretofore assented to the plan of reorganization and that therefore no opportunity need be given such creditors or stockholders to withdraw the assents heretofore given by them.

18. That the said plan of reorganization was submitted by the said committees as the owners and holders of not less than 25% in amount of claims that are affected by said plan of reorganization as amended and not less than 10% in amount of all the claims against the Debtor; that the court hereby finds that the amendments herein made on the motion of the court do not materially or adversely affect the interests of any creditor or stockholder of the Debtor; that the said plan of reorganization as amended herein and hereby is fair and equitable and does not discriminate unfairly in favor of any class of stockholders or creditors of the Debtor and is feasible and complies with the provisions of subdivision (b) of Section 77B; that the plan of reorganization as hereby and herein amended is hereby approved, confirmed and decreed to be in full force, virtue and effect.

19. That the proposed amendments to the plan of reorganization as amended submitted by Anna Jacobson, Jacob Meyerhoff, John G. Pankin, Mrs. Rae Mann, Joseph Meyerhoff and Julius Meyerhoff and by William H. Melvin be and they hereby are disallowed except to the extent that the amendments to the plan of reorganization herein incorporated on the court's motion may be provided for in the
66 said proposed amendments of said persons or any or either of them.

20. That the Debtor and the said Committees, with the cooperation of counsel for the Debtor, for said Committees and for the petitioning creditors, are hereby directed to proceed forthwith to take such action and to prepare and execute or cause to be executed such documents as may be necessary fully to comply with and carry out the provisions of the said plan of reorganization, as amended, and the court hereby retains jurisdiction to supervise the preparation and execution of said documents and to pass upon and approve the provisions therein contained.

21. In the event fifty-one per cent (51%) or more in amount of the first mortgage bondholders of the Sovereign and Sovereign Annex issues of bonds do not in the referendum provided for in said plan vote against the creation of a trust and the common stock of the new corporation is to be issued to trustees as in the plan provided, the court hereby designates Paul W. Cleveland and Melvin M. Hawley to serve as trustees under the trust agreement and hereby approves the nomination of the bondholders' committees of Paul Steinbrecher as one of the trustees.

22. That the Debtor and the said Committees shall report in writing to this court on or before July 9, 1935, all acts and things done and performed by them in the execution and consummation of said plan of reorganization as amended and the documents incidental thereto and this cause is hereby continued until said date without further notice for the purpose of examining and confirming said report.

67 23. That this cause also stands continued to June 25, 1935 without further notice, at which time the court will consider and pass upon all allowances of fees and charges in connection with the reorganization and with the said foreclosure proceedings including the fees of counsel for the Debtor, for the said committees, for the petitioning creditors and all other fees; that all persons and parties asking fees are directed to file herein prior to said date their petitions setting forth the services rendered.

24. And it appearing to the court that Robert M. Sweitzer, County Treasurer and ex-officio County Collector of Cook County is now in possession of the premises as receiver in a certain cause for the appointment of a tax receiver in the Circuit Court of Cook County, No. 34C13891, and that he has agreed to surrender possession of the premises to the new corporation upon its undertaking to apply all the net income of the property on account of general taxes levied and assessed against the property, the said Robert M. Sweitzer, County Treasurer and ex-officio County Collector of Cook County is hereby directed upon the new corporation entering into such undertaking, to surrender possession of the property to said new corporation; that at the same time he shall assign to the new corporation all accounts receivable and deliver to the new corporation all books and records nec-

essary to carry on the business of the premises; that
68. the new corporation shall assume the accounts payable of said receiver as of the date of surrender of possession but if the amount of said accounts payable exceeds the amount of the accounts receivable less reserves for bad debts, then the said receiver shall pay over to the new corporation to the extent available cash held by the receiver equal to the difference between said accounts receivable less reserves and said accounts payable.

25. The court hereby reserves jurisdiction over the trust if any to be created pursuant to the plan of reorganization and over the trustees from time to time acting as trustees under said trust agreement for the purpose of supervising the acts and doings of such trustees and for the purpose of protecting and safeguarding in all respects the rights of the holders of the trust certificates from time to time outstanding and reserves jurisdiction over the property in any and all matters involving said trustees or the holders of such trust certificates. Each and all of the holders and owners of the trust certificates from time to time outstanding shall be and they hereby are forever jointly and severally enjoined from commencing or prosecuting proceedings of any nature whatsoever against the Debtor or the new corporation or against any of the property of the Debtor or the new corporation or against the trustees or any of them without first obtaining the consent of this court after due notice to all parties in interest. Said trustees shall file annually a report showing the receipts and disbursements for each calendar year and shall periodically send or cause the new corporation to send reports covering the operations of the property to all stockholders and certificate holders.

69 26. Each and all of the owners and holders of bonds and interest coupons secured by the Sovereign First Mortgage Trust Deed recorded December 22, 1919, as Document No. 6699724, and by the Sovereign Annex First Mortgage Trust Deed recorded November 16, 1922, as Document No. 7717203 be, and they hereby are forever jointly and severally enjoined from commencing or prosecuting any proceedings of any nature whatsoever against the Debtor, its successors or assigns, or against any of the property of the Debtor or the new corporation on any of said bonds or interest coupons or said Trust Deeds, or either of them.

27. That the said committees be, and they hereby are directed pursuant to the said plan of reorganization to conduct forthwith a referendum of the first mortgage bondholders of the Sovereign and Sovereign Annex issues of bonds to determine whether or not the said bondholders desire to have the stock of the new corporation to be issued for their benefit, deposited under a trust agreement as provided in the said plan of reorganization; that the committees are directed to report to this court their doings in this respect and the result of the referendum.

28. The court reserves jurisdiction herein to enter such further orders as hereinafter may be deemed necessary or proper in connection with carrying out the terms and provisions of said plan of reorganization, as amended, and of this order and for terminating this cause.

Enter this the 20th day of May, 1935.

Barnes,
Judge.

70 IN THE DISTRICT COURT OF THE UNITED STATES.
* * (Caption—58701) * *

STATEMENT OF EVIDENCE.

BE IT REMEMBERED that on April 27, 1935, this case further came on to be heard before the Honorable John P. Barnes, on the report and supplemental report of Carl R. Chindblom, Referee in Bankruptcy, and on the motion of the Sovereign First Mortgage Bondholders' Committee and of the Sovereign Annex First Mortgage Bondholders' Committee, and of the debtor and of the petitioning creditors, for approval of the plan of reorganization as amended, and on the objections to said plan of reorganization as amended, and that at the hearing thereof, there appeared Meyer Abrams of Shulman, Shulman & Abrams, on behalf of certain objectors, David K. Tone, on behalf of another objector, Max Frederick Goldberg, on behalf of the debtor, Bernard Nath of Sonnenschein, Berkson, Lautmann, Levinson & Morse, Arthur M. Cox of Judah, Reichmann, Trumbull, Cox & Stern, Claude A. Roth and Harry E. Smoot of Gottlieb & Schwartz, on behalf of the

Bondholders' Committees, and Irving H. Flamm, on behalf of the petitioning creditors, and thereupon argument was had with respect to the plan of reorganization as amended and the objections thereto, and that during such argument the following ensued:

71 1. Meyer Abrams made the statement that the property was in possession of Robert M. Sweitzer, County Collector, as receiver under the so-called "Skarda Act" and that Harry W. Solomon, a former officer of S. W. Straus & Co., was acting as agent for the County Collector and was receiving as his compensation six per cent (6%) commission. This statement was denied by a representative of State's Attorney Thomas J. Courtney, who stated that the compensation was three per cent (3%) and this was verified by counsel for the Committees.

2. Mr. Meyer Abrams stated that the ten per cent (10%) stock interest to go to the junior interests as set forth in the reorganization plan, was going to persons connected with S. W. Straus & Co. Thereupon counsel for the Bondholders' Committees stated to the court that, as shown by the plan, seven and one-half per cent (7½%) of the stock was to be issued to S. W. Assets Liquidation Corporation and two and one-half per cent (2½%) to Nomis Suarts Corporation; that S. W. Assets Liquidation Corporation had been organized by approximately ninety-six per cent (96%) in amount of the creditors of S. W. Straus & Co., who had purchased all of the assets of S. W. Straus & Co. at a receiver's sale in the equity proceedings involving S. W. Straus & Co., and that no person in any way connected with S. W. Straus & Co. at any time was or ever had been an officer, director or stockholder, or in any way financially interested in S. W. Assets Liquidation Corporation. Counsel further stated that persons formerly connected with S. W. Straus & Co. were officers and directors of Nomis Suarts Corporation and were financially interested in Nomis Suarts Corporation, but that said corporation was heavily indebted and that any recovery made by Nomis Suarts Corporation would undoubtedly go to its creditors and not to persons connected with S. W.
72 Straus & Co. A similar statement with respect to S. W. Assets Liquidation Corporation was made by Frank Klaas, associated with Arthur J. Hughes, the attorney for S. W. Assets Liquidation Corporation.

3. Counsel for the Bondholders' Committees explained the manner in which the interest of S. W. Assets Liquidation Corporation and Nomis Suarts Corporation in the property had been acquired. They stated that, prior to February 1931, S. W. Straus & Co., in accordance with its general policy, had advanced funds necessary to meet payments of interest and principal prepayments on the Sovereign and Sovereign Annex first mortgage bonds and interest coupons; that as shown by the plan of reorganization, the principal amount of each of said bond issues has been substantially reduced; that to a large extent, such reduction in the principal amount of said bond issues has been made possible by advances of S. W. Straus & Co., who purchased the maturing bonds and interest coupons in accordance with the terms and provisions of the mortgage trust deeds and thereupon voluntarily subordinated such bonds and interest coupons so acquired by them to the outstanding bonds and interest coupons in the hands of the general public; that for a number of years prior to February 1931, the income from the property had not been enough to meet the payments of principal and interest on said bond issues and that S. W. Straus & Co. had advanced the deficit in order that the maturing bonds and interest coupons might be met; that the interest of Nomis Suarts Corporation was acquired in the same manner, said corporation having supplied a portion of the funds advanced by S. W. Straus & Co. to holders of bonds and interest coupons; that the total of these advances aggregated $396,900. in excess of all sums derived from the operation of the property.

73 4. Counsel for the Bondholders' Committees stated that the complaint of Nettie Meyer in the case of Meyer *vs.* Kenmore-Granville Hotel Company, Superior Court of Cook County, Illinois, Number 35 S 2153 had been filed in the Superior Court of Cook County four days after the institution of this proceeding, namely, on February 8, 1935.

5. Mr. Meyer Abrams stated that there were no debtor and no creditors because the debtor was not personally liable for the payment of Sovereign and Sovereign Annex first mortgage bonds and interest coupons; whereupon counsel for the debtor stated that the debtor corporation had expressly assumed payment of said bonds before these proceedings were instituted.

6. Counsel for the Bondholders' Committees stated that the members of the Bondholders' Committees were George W. Rossetter, Jay C. McCord and Sidney H. Kahn, and that neither Mr. Rossetter nor Mr. McCord had ever in any manner, directly or indirectly, been associated with S. W. Straus & Co. or any of its affiliated companies.

7. In addition to the foregoing, there was a full discussion between counsel and the court of each and all of the provisions of the proposed plan of reorganization. After the argument had been concluded, the court was given a copy of the plan of reorganization as amended, also copies of the objections, and stated that he would take the matter under advisement and advise counsel when he was ready to give his opinion; that thereafter on the 4th day of May, 1935, the court handed down its opinion as follows:

74 IN THE DISTRICT COURT OF THE UNITED STATES.

* * (Caption—58701) * *

MEMORANDUM.

This matter came on to be heard upon the plan of reorganization proposed by George W. Rossetter and others, as a committee, and amendments thereto filed by said George W. Rossetter and others, as such committee, objections to said plan, as amended, by William H. Melvin, objections to said plan by Anna Jacobson and others, the report and supplemental report of Carl R. Chindblom, Referee, as special master, and upon a proposed amendment to the plan of reorganization submitted by Anna Jacobson and others, and the court having heard and considered the arguments of counsel, and being now fully advised in the premises, finds that the plan filed by said George W. Rossetter and others, as amended, should be approved, subject to the following conditions:

(a) Paragraph numbered "2" on page 3 of the Plan provides that "all of the authorized common stock of the New Corporation shall be issued to three trustees (hereinafter referred to as the 'Trustees') to be selected by the Committees." This provision shall be so modified as to provide that two of the three trustees shall be selected by the court.

(b) Paragraph numbered "3" on page 4 of the Plan provides that "Straus Service Corporation, an Illinois corporation, shall be the agent and depositary of the Trustees and shall be entitled to the usual compensation for the performance of its duties." This provision shall be so modified that the agent and depositary of the Trustee shall be designated by the court, and so as to further provide that said agent and depositary shall be entitled to such compensation for its duties, not exceeding the usual compensation, as shall be stated in a letter prepared and signed by it and filed, one copy with the corporation and one with the court.

(c) Paragraph numbered "4" on page 5 provides that "The New Corporation shall *** indemnify and agree to save the trustees" (mortgage trustees) "harmless from any and all other claims against said trustees arising out of the trustees' operation of the properties." This provision shall be so modified as to provide that said trustees shall not be indemnified or held harmless against their bad faith.

(d) Paragraph numbered "5" on pages 5 and 6 of the Plan shall be so modified as to provide that no mortgage shall be placed upon the property of the reorganized corporation for any purpose except to pay taxes, and so as to further provide that the expenses of the reorganization, of the foreclosures, which are not paid in cash shall be evidenced by certificates bearing five per cent. (5%) interest per annum, which certificates shall be so drawn as to prevent their being converted into judgments.

(e) Paragraph numbered "4" on page 3 of the amendment to the plan provides that the Committee shall designate the agent of the trustees, subject to the approval of the court. This provision shall be modified so as to provide that the agent of the trustees shall be designated by the court.

(f) A further provision in paragraph numbered "4" of the amendment to the plan that "The Trustees shall be entitled to be recompensed for their expenses and shall receive reasonable compensation for their services, which shall not exceed in the aggregate 1% of the annual gross income derived from the rental of rooms in the property" shall be so modified as to provide that the trustees each shall

76 receive per year one-third of one per cent. of the annual gross income derived from the rental of the rooms in the property or $300, whichever shall be less.

(g) Paragraph numbered "5" of the amendment to the plan shall be so modified as to provide that no mortgage shall be placed on the property of the reorganized corporation except for the purpose of paying taxes. Said paragraph shall further provide that any unpaid allowances and expenses shall be evidenced by certificates bearing interest at the rate of five per cent. per annum, which certificates shall be so drawn as to prevent their being converted into judgments.

Both the plan and the amendment to the plan shall be so modified as to provide that all allowances for services rendered in the reorganization in this court, for services in or about the foreclosure proceeding, and for services of the committee, the depositary, and their attorneys, agents and servants shall be subject to the approval of this court.

William H. Melvin and Anna Jacobson and others object to the following claims:

(a)	Class A (1)	Claim No. 17
(b)		Claim No. 16
(c)	Class A (2)	Claim No. 17
(d)		Claim No. 16
(e)		Claim No. 13
(f)	Class B	Claim No. 17
(g)		Claim No. 16
(h)	Class C	Claim No. 15

The order may provide that the objections to claim Class A (1), Claim No. 17, shall be reserved to the hearing of all claims for administration expenses.

The order may provide that the objections to claim Class A (1), Claim No. 16, shall be reserved to the hearing of all claims for administration expenses.

77 The order may provide that the objections to claim Class A (2), Claim No. 17, may be overruled.

The order may provide that objections to claim Class A (2) Claim No. 16, may be overruled.

The order may provide that objections to claim Class A (2), Claim No. 13, may be overruled.

The order may provide that objections to claim Class B, Claim No. 17, may be overruled.

The order may provide that the objections to claim Class B, Claim No. 16, may be overruled.

The order may provide that objections to claim Class C, Claim No. 15, may be overruled.

(Note: The order to be prepared by counsel shall provide, of course, for the abatement of claims filed by the trustees on bonds to the extent that the holders of the bonds file claims in their own behalf.)

The proposed amendment to the plan of reorganization submitted by Anna Jacobson and others will be disallowed, except to the extent that the conditions of approval of the plan and amendments thereto hereinabove set forth may adopt the amendments proposed by Anna Jacobson. The amendment to the plan proposed by Anna Jacobson contemplates too complicated a plan of reorganization. Plans of reorganization should, especially in these real estate matters, be as simple as possible. Furthermore, it seems to the court that it is better, at the present time, to determine the relative rights, interests and preferences of all the parties in the property, so that when it comes time to sell the property there will not be a controversy, as there certainly would be a controversy if it were proposed to sell the property for enough to pay off Class A certificates and nothing was to be left for Class B or Class C certificates. As the court has indicated, the time to settle that controversy is at the present moment.

78 The proposed amendment of Anna Jacobson to the plan seems to be the preservation of a supposed cause of action against somebody, rather than the reorganization of this property and getting it out of court. The court has heretofore, in an oral opinion which was reduced to writing and filed herein on March 20th, 1935, adequately expressed its views concerning said cause of action. The plan of reorganization as amended shall be amended expressly to provide that if there is any cause of action, or if there are any

causes of action, in the debtor or in any person, firm or corporation for the debtor, such causes of action shall be preserved and passed to the reorganized corporation.

Counsel are requested to take up with the County Treasurer a proposal that the tax receiver be eliminated from the management of the property upon the undertaking of the reorganized corporation that all of the net income of the property be applied to the payment of taxes.

Counsel may forthwith prepare a draft of an order giving effect to the views of the court hereinabove expressed. This order may be presented to the court at 2 o'clock P. M. on Monday, May 13, 1935.

JOHN P. BARNES
Judge.

May 4, 1935.

79 That the foregoing is a true and accurate statement of all the proceedings had and taken in the foregoing cause in connection with the hearings on the plan of reorganization as amended.

Wherefore appellant Nettie Meyer prays that the statement of evidence of the appellant be settled, approved and allowed by the court as a true, full, correct and complete statement of all of the matters which transpired in court at the hearing of said cause for use in the appeal taken from the entry of the order approving the plan of reorganization.

MEYER ABRAMS,
Attorneys for Nettie Meyer, et al., Appellants.

The foregoing statement of evidence heretofore lodged in the office of the Clerk of this Court is in all respects hereby approved, settled and allowed as a true and complete statement of evidence on the trial of the above entitled action, and is ordered filed as a statement of evidence to be included in the record of appeal in the above styled cause. June 1, 1935.

JOHN P. BARNES,
United States District Judge.

80 IN THE DISTRICT COURT OF THE UNITED STATES.
(Caption—58701)

PETITION.

Your petitioner, Nettie Meyer, in her own behalf and on behalf of the other objectors represented by Shulman, Shulman and Abrams, says:

(1) That she has heretofore prosecuted an appeal which is now pending in the Circuit Court of Appeals of this Circuit.

(2) She is desirous of prosecuting an appeal from the entry of the order approving the Plan of Reorganization.

(3) She desires that the appeal bond heretofore filed also stand as the appeal bond in this cause.

Wherefore petitioners pray that an order may be entered accordingly.

NETTIE MEYER
Petitioner.

By SHULMAN, SHULMAN AND ABRAMS,
Her Attorneys.

81 And on, to wit, the 20th day of May, 1935, came the petitioner by her attorneys and filed in the Clerk's office of said Court a certain Assignment of Errors in the words and figures following, to wit:

IN THE DISTRICT COURT OF THE UNITED STATES.
(Caption—58701)

ASSIGNMENT OF ERRORS.

Now comes Nettie Meyer, together with all other objectors represented by Shulman, Shulman and Abrams, as they appear of record, and assign error from the entry of the order approving the Plan of Reorganization, and for reasons therefor, say:

(1) That the said Nettie Meyer has heretofore prosecuted an appeal to the Circuit Court of Appeals for the Seventh Circuit, and did by her appeal raise the questions of the jurisdiction of the court of the subject matter and the parties, as it more fully appears from the Assignment of Errors now on file, which is incorporated herein by reference and made a part hereof, and by reason therefor the court was without jurisdiction to enter the order approving the Plan of Reorganization, or to enter any order in the cause in connection with such proceedings.

(2) It affirmatively appears that there is no creditor and no debtor, and no property belonging to a debtor within the scope and purview of the Act, and that the order was therefore, improperly entered, and without jurisdiction.

(3) Insofar as the order placed the owners of junior interests on parity with the owners of the superior interest, the court was without jurisdiction to enter such order and was unfair and inequitable.

82 (4) The proceedings under Section 77B insofar as it deprived the State Court of its jurisdiction in a matter wholly foreign to bankruptcy is void and contrary to the spirit of the Constitution of the United States of America, and constitutes a usurpation of the Legislative Branch upon the Judiciary and is wholly void.

(5) The plan is inequitable and deprives the bondholders of the value of their securities, and it was the duty of the court to reject it, and if jurisdiction existed, to adopt the plan presented to it by some of these objectors.

Wherefore said Nettie Meyer in her own behalf and on behalf of all other objectors represented by Shulman, Shulman and Abrams, who join herein, prays that all orders made in this cause as well as the order approving the plan of reorganization made and entered May 20, 1935, be vacated and set aside and reversed, to the end that the proceedings be dismissed for want of jurisdiction, and that the plan be set aside as shocking to the conscience of a court of equity under which the bankruptcy court was acting in these proceedings.

SHULMAN, SHULMAN AND ABRAMS,
Attorneys for Nettie Meyer and other objectors.

83 IN THE DISTRICT COURT OF THE UNITED STATES.
(Caption—58701)

ORDER.

On motion of Shulman, Shulman and Abrams, attorneys for Nettie Meyer, and the Court being fully advised in the premises;

On petition of Nettie Meyer for leave to appeal from the entry of the order approving the plan in her own behalf and for the use and benefit of the other objectors represented by said Shulman, Shulman and Abrams;

It is ordered that the appeal be granted, and the bond heretofore filed by said Nettie Meyer for costs also stand as the bond in connection with this appeal.

ENTER: BARNES
Judge.

84 IN THE DISTRICT COURT OF THE UNITED STATES.
(Caption—58701)

PRAECIPE FOR RECORD.

To the Clerk of the District Court of the United States:

You are hereby authorized and directed to prepare a praecipe for record in connection with the appeal taken from the order entered May 20, 1935, and to include therein the following:

(1) Supplemental Report of Carl R. Chindblom, Referee in Bankruptcy, dated April 27, 1935.

(2) Objections of Anna Jacobson, *et al.* returned with said Master's Report.

(3) Order approving Plan entered May 20, 1935.

(4) Petition for allowance of appeal.

(5) Order allowing appeal.

(6) Assignment of Errors.

(7) Statement of Evidence when approved.

(8) Proposed amendment to plan.

SHULMAN, SHULMAN & ABRAMS,
Attorneys for Nettie Meyer, et al., Appellants.

85 IN THE DISTRICT COURT OF THE UNITED STATES.
(Caption—58701)

PRAECIPE FOR ADDITIONAL MATTERS FOR RECORD.

To the Clerk of the District Court of the United States:

You are hereby authorized and directed to prepare a Praecipe for Additional Matters for Record in connection with the appeal taken from the order entered in the above entitled cause on May 20, 1935, and to include therein the following:

1. Creditors' petition of J. Gold, R. Sandroff and S. Isenberg under Section 77B of the Bankruptcy Act;
2. Answer of Kenmore-Granville Hotel Company, a corporation, to petition of J. Gold, *et al.*;
3. Order of February 13, 1935, approving petition of J. Gold, *et al.*, as properly filed under Section 77B of the Bankruptcy Act and restraining and enjoining creditors from proceeding against Debtor;
4. Joint intervening petition of George W. Rossetter, Jay C. McCord and Sidney H. Kahn, as the Sovereign Annex First Mortgage Bondholders' Committee and the Sovereign First Mortgage Bondholders' Committee representing certain holders of the first mortgage bonds of said issues, filed pursuant to order of court entered on February 13, 1935, including Exhibit "C" thereto attached;

5. Order of February 27, 1935, granting leave to said intervening petitioners to file their petition proposing a plan of reorganization instanter.

IRVING H. FLAMM,
Attorney for petitioning creditors.

MAX FREDERICK GOLDBERG,
Attorney for Kenmore-Granville Hotel Company, a corporation, Debtor.

JUDAH REICHMANN TRUMBELL
COX & STERN,
SONNENSCHEIN BERKSON LAUTMANN
LEVINSON & MORSE,
GOTTLIEB AND SCHWARTZ,
Attorneys for George W. Rossetter, Jay C. McCord and Sidney H. Kahn, as the Sovereign Annex First Mortgage Bondholders' Committee and the Sovereign First Mortgage Bondholders' Committee.

86 The following pages numbered from 170 to 184 inclusive, are true copies of proceedings had and papers filed in the United States Circuit Court of Appeals, as called for by appellants' praecipe, filed July 12, 1935.

And on, to wit: On the seventh day of June, 1935, there was filed in the office of the Clerk of this court a petition of appellees to dismiss the appeal, which said petition is in the words and figures following, to wit:

87 IN THE UNITED STATES CIRCUIT COURT OF APPEALS.
* * (Caption—5531) * *

PETITION.

Now comes Kenmore-Granville Hotel Company, a corporation, Debtor, J. Gold, R. Sandroff and S. Isenberg, petition-

ing creditors and George W. Rossetter, Jay C. McCord and Sidney H. Kahn, as The Sovereign and The Sovereign Annex First Mortgage Bondholders' Committees, appellees herein, by their respective counsel, and move the court to dismiss the appeal of Nettie Meyer to the United States Circuit Court of Appeals for the Seventh Circuit allowed in the United States District Court, and in support of this motion appellees present the suggestions attached hereto.

MAX FREDERICK GOLDBERG,
Attorney for Debtor,

IRVING H. FLAMM,
Attorney for Petitioning Creditors,

CLAUDE A. ROTH,
HARRY E. SMOOT,
ARTHUR W. COX,
BERNARD NATH,
Attorneys for Committee,
Counsel for Appellees.

88 And on the same day, to-wit: On the Seventh day of June, 1935, there was filed in the office of the Clerk of this court a motion and petition for allowance of an appeal by this court, etc., which said motion and petition are in the words and figures following, to-wit:

89 IN THE UNITED STATES CIRCUIT COURT OF APPEALS.
(Caption—5531)

MOTION.

Now come Nettie Meyer, *et al.*, appellants, by Meyer Abrams, their attorney, and move as follows:

(1) That the transcript of record filed in case No. 5491 be filed in this cause and be considered as part of the record.

(2) That the Clerk be directed not to print the matters and things contained in the Additional Praecipe for Record filed by appellees.

(3) That the court may allow an appeal to revise and review the final order entered by the court on May 20, 1935, confirming and approving the Plan of Reorganization, and that such appeal be consolidated with this cause.

In support of the foregoing motions appellants herewith present their verified Petition.

MEYER ABRAMS,
Attorney for Appellants.

90 IN THE UNITED STATES CIRCUIT COURT OF APPEALS.
(Caption—5531)

PETITION.

To the Honorable Judges of the United States Circuit Court of Appeals for the Seventh Circuit:

Your Petitioners, Nettie Meyer, *et al.*, appellants, by Meyer Abrams, their attorney, respectfully show:

(1) That petitioner has heretofore prosecuted an appeal from the order approving the petition refusing to dissolve the Injunction and to dismiss the petition, and subsequent to the filing of the record, transcript and briefs on behalf of the appellant, this court sustained the motion of the appellees to dismiss the appeal on the ground that the District Court was without jurisdiction to grant the appeal.

(2) That during the pendency of the appeal a final order was entered in said cause on May 20, 1935, confirming the Plan of Reorganization with certain modifications, and that petitioner and others have petitioned the trial court for an appeal, and the appeal was allowed, and that the record in connection with said appeal is now on file in this cause.

(3) That appellees have filed an Additional Praecipe for the record, all of which matters are contained in the record, and in the printed transcript of the record on the former appeal, and that the matters contained in the record on the former appeal are pertinent to the issue involved in this appeal, and by reason thereof it is necessary to make the record heretofore filed in the appeal which was dismissed a part of the record in this cause; that the two records will
91 present to the court for review the complete subject

matter of this appeal, and that all of the matters and things contained in the Additional Praecipe were printed in the transcript of the record heretofore filed in the former appeal, and it will cause unnecessary expenses to re-print that part of the record.

(4) Petitioner therefore, petitions this court that the record in case No. 5491 together with the transcript of record stand as the record in this cause together with the record filed herein, and that the Clerk of the court be authorized and directed to only print the part of the record as ordered by appellants due to the fact that the part of the record desired to be printed by appellees is all included in the printed record which petitioner desires to be filed in this court.

(5) Petitioner has heretofore petitioned this court to grant an appeal to revise and review the order of May 20, 1935, due to the fact that petitioner was in doubt as to whether such appeal was properly prosecuted below, and in order to protect her rights, she asked that the appeal also be allowed by this court, but that this court denied the prayer of the Petition.

(6) That no reasons were given by the court for the denial of the Petition, and petitioner believes that the denial thereof was due to the fact that the order appealed from was not certified to this court, and in order to remove this objection, petitioner has now filed the record in this cause, which contains the order of May 20, 1935.

(7) Petitioner refers to the Assignment of Errors filed simultaneously with this Petition setting forth the errors made by the court below and giving the grounds of this appeal, and makes said Assignment of Errors a part hereof.

(8) The following is a statement of the undisputed facts upon which arises the important and fundamental ques-
92 tions of jurisdiction sought to be reviewed.

In November, 1919, a bond issue of $1,000,000.00 was executed by Sovereign Hotel and Building Corporation, an Illinois corporation, covering the hotel proper. In August, 1922, another bond issue was floated on the Annex. Both the Annex and the hotel are being operated as one unit by two separate trustees, and prior to the filing of the Creditors' Petition the County Treasurer was in possession as Receiver

under the Skarda Act. A junior bond issue of $250,000.00 was executed by the Hotel and the Annex corporations in November, 1922, and as a result of a foreclosure of the junior bond issue the interest of both corporations, which executed the bond issues, were completely wiped out, and title was acquired by Sidney H. Kahn, as a result of the foreclosure. He organized the Kenmore-Granville Hotel Company, which did not assume the debt.

Three creditors, owners of bonds, executed by the original mortgagors, filed a proceeding for corporate reorganization claiming that they were creditors under the Act, and that the new corporation was a Debtor under the Act.

The present corporation was never in possession of the property, and was organized for reorganization purposes under the State Court proceedings.

Prior to the approval of the Petition appellant filed her Complaint in the State Court alleging fraud and breach of trust duties, and sought the prevention of a fraudulent reorganization by an alleged Bondholders' Committee. The District Court approved the Petition as filed in good faith and enjoined the State Court proceedings.

An appeal was prosecuted from the ruling of the court, which is pending here on appeal in case No. 5491, reference being made to the Transcript of the Record and to the Brief on file.

Subsequent to the perfection of the appeal the District Court approved the Plan of Reorganization with certain modifications appellant prayed for an appeal from the entry
93 of the order aproving the Plan of Reorganization, and is now petitioning this court for leave to appeal here because of the doubt as to whether or not the appeal was properly taken below or should be taken here. The order from which the appeal is sought relegates the position of the bondholders to the holders of common stock, and gives to the junior interests 10% on parity with the interest of the first mortgage bondholders. It approved and allowed certain claims, and disapproved an amendment to the Plan presented by appellant. It permanently enjoined the prosecution of the suit in the State Court and retained jurisdiction of the subject matter.

(9) Appellant, Nettie Meyer, raised a jurisdictional question by her first appeal and is now reiterating her objection to the final order on the ground of lack of jurisdiction. She contends that there is no creditors, no debtor, or any debtor's property, subject to be administered under Section 77B. She also contends that the Bankruptcy Court was without jurisdiction to restrain the State Court proceeding involving fraud and breach of trusts, which are not within the purview of the Bankruptcy Act.

(10) Your petitioner respectfully requests that this Honorable Court exercise its discretion in favor of allowance of appeal herein on the following grounds:

(a) The appeal involves the important and fundamental question of jurisdiction which is at the threshhold of every proceeding.

(b) The question raised in this appeal is of public importance insofar as it involves the construction of Section 77B and the mode of appeal. If it be true that an appeal as of right cannot be taken from the approval of the Plan of Reorganization, no remedy is available to appeal from the fairness of the plan as this court could only decide on questions of law.

(c) The question whether a dummy corporation may be organized for the purpose of affecting a corporate reorganization under Section 77B is of great importance and should be squarely decided.

(d) The question whether Section 77B amends the Bankruptcy Law to confer jurisdiction on the Bankruptcy Court to deprive State Courts of their jurisdiction in matters excluded by the prior Bankruptcy Act is of vital importance.

(e) The question whether under Section 77B the court may
94 permanently retain jurisdiction and restrain proceedings involving a subject which is foreign to Bankruptcy is a question of law, which may be reviewed here if the appeal is allowed.

Wherefore petitioner prays that the appeal may be allowed in the discretion of this Honorable Court in the matter of law herein, and that a citation be issued directed to the Kenmore-Granville Co., a corporation, J. Gold, R. Sandroff

and S. Isenberg, petitioning creditors, George W. Rossetter, Jay C. McCord and Sidney H. Kahn, members of the Bondholders' Protective Committees, commanding them to appear before this court to do and receive whatever may be certain in justice to be done in the premises, and that upon the allowance of the appeal it may be consolidated with this cause, and that the transcript of the record filed in this cause stand as the transcript of record upon the appeal to be allowed by this court, if allowed.

Dated at Chicago, this 6th day of June, A. D., 1935.

NETTIE MEYER,
Petitioner.

By MEYER ABRAMS,
Her Attorneys.

State of Illinois }
County of Cook } ss.

Meyer Abrams being first duly sworn on oath, deposes and says that he is the attorney for the petitioner and for the other objectors who join herein in said Petition prepared by him; that he has read the Petition and knows its contents, and that it is true in substance and in fact.

MEYER ABRAMS.

Subscribed and sworn to before me this 6th day of June, A. D., 1935.

YETTA MAILICK,
Notary Public.

95 And on the same day, to-wit: On the seventh day of June, 1935, the following further proceedings were had and entered of record, to-wit:

Friday, June 7, 1935

Court met pursuant to adjournment and was opened by proclamation before:

Hon. Evan A. Evans, Circuit Judge.

IN THE UNITED STATES CIRCUIT COURT OF APPEALS.
* * (Caption—5531) * *

Now this day come the parties by their counsel and counsel for appellees present a motion that the appeal granted by the District Court in this cause be dismissed.

Counsel for appellants granted 5 days to file a brief in opposition to said petition, and counsel for appellees granted one week thereafter to file a reply thereto.

(1) Thereupon, counsel for appellants, Nettie Meyer, *et al.*, presents a motion that the transcript of the record filed in Cause 5491 be filed in this cause and considered a part of the record.

(2) That the Clerk be directed not to print the matters and things contained in the additional praecipe for record filed by appellee.

(3) That the court may allow an appeal to revise and review the final order entered by the District Court on May 20, 1935, confirming and approving the plan of reorganization, and that such appeal be consolidated with this cause.

Counsel for appellees are granted one week to file brief in opposition to this motion, and the foregoing petition and motion are taken under advisement.

96 And afterwards, to-wit: On the twenty-fifth day of June, 1935, the following further proceedings were had and entered of record, to-wit:

Tuesday, June 25, 1935

Court met pursuant to adjournment and was opened by proclamation. Before:

Hon. Evan A. Evans, Circuit Judge.
Hon. William M. Sparks, Circuit Judge.

IN THE UNITED STATES CIRCUIT COURT OF APPEALS.
* * (Caption—5531) * *

It is ordered by the court that the motion of Nettie Meyer, *et al.*, for the allowance of an appeal from an order entered in this cause by the District Court of the United States for

the Northern District of Illinois, Eastern Division, on May 20, 1935, confirming and approving a plan of reorganization be, and the same is hereby denied.

And afterwards, to-wit: On the twenty-eighth day of June, 1935, there was filed in the office of the Clerk of this court a motion and petition to consolidate Cause 5491 with Cause 5531, etc., which said motion and petition are in the words and figures following, to-wit:

97 IN THE UNITED STATES CIRCUIT COURT OF APPEALS.
* * (Caption—5531) * *

MOTION.

Now come Nettie Meyer, Anna Jacobson, Jacob Meyerhoff, John G. Pankin, Mrs. Rae Mann, Joseph Meyerhoff and Julius Meyerhoff, Appellants, by Meyer Abrams, their attorney, and move as follows:

(1) To consolidate case No. 5491 with this case and to have the record in case No. 5491 stand as part of the record in this cause.

(2) To vacate the order denying the application for leave to appeal and to permit an amendment to the Petition.

(3) To enter all orders in the consolidated cause dismissing the appeals and denying the application for leave to appeal, and to stay the mandate pending application for a Writ of Certiorari, to the Supreme Court of the United States.

In support of the foregoing appellants refer to their Petition and Suggestions.

MEYER ABRAMS,
Attorneys for Appellants.

98 IN THE UNITED STATES CIRCUIT COURT OF APPEALS.
* * (Caption—5531) * *

PETITION.

Your Petitioners, Nettie Meyer, Anna Jacobson, Jacob Meyerhoff, John G. Pankin, Mrs. Rae Mann, Joseph Meyerhoff and Julius Meyerhoff, respectfully show:

(1) That heretofore Nettie Meyer prosecuted her appeal in Case No. 5491, which appeal was dismissed, and that a motion was made in that cause to vacate the dismissal order, and a motion is presented to the court together with a motion in this cause to vacate the dismissal order and to consolidate the two causes.

(2) That this court has rendered a memorandum of an opinion in this cause stating therein that the appeal allowed below was without jurisdiction, but that no final order was entered, and in view of the opinion, the entry thereof is merely ministerial, and that appellants expect that such order will be entered, and they are desirous of having all orders entered simultaneously in the consolidated cause so that the whole subject matter may be presented for review to the Supreme Court of the United States, and it would save a great deal of expense and simplify the procedure if the motions will be allowed.

99 (3) That this court denied the application of Nettie Meyer for leave to appeal and that it indicated in its opinion that the reason for the denial is due to the fact that the co-appellants, Anna Jacobson, Jacob Meyerhoff, John G. Pankin, Mrs. Rae Mann, Joseph Meyerhoff and Julius Meyerhoff have not joined in the appeal, but that all petitioners did authorize said Nettie Meyer to appeal in her name and in the name of all other petitioners represented by the same attorney, and for the purpose of curing any technical defect in the Petition, they desire to have the records show that they joined and are now joining in the application for leave to appeal and pray that the Petition be treated as an amendment to the Petition heretofore filed by said Nettie Meyer,

(4) That if this court is convinced that leave to appeal should be denied, the order denying the appeal should also be entered simultaneously with the orders dismissing the appeals, so that this matter may also be included in the application for the Writ of Certiorari.

(5) That petitioners have filed their written objections to the Plan of Reorganization and are joining in the application for leave to appear heretofore filed by the said Nettie Meyer.

Wherefore, Petitioners pray that the court may consider the foregoing motion together with the consideration of the

motion in case No. 5491, and that it may pass upon the whole matter at once so that the case should not go up in piecemeal to the Supreme Court of the United States, and thereby avoid great confusion and unnecessary expenditures.

NETTIE MEYER,
ANNA JACOBSON,
JACOB MEYERHOFF,
JOHN G. PANKIN,
MRS. RAE MANN,
JOSEPH MEYERHOFF,
JULIUS MEYERHOFF,

By MEYER ABRAMS,
Their Attorney.

State of Illinois }
County of Cook } ss:

100 Meyer Abrams being first duly sworn on his oath, deposes and says that he is the duly authorized agent and attorney for all of the foregoing petitioners; that he has read the foregoing petition prepared by him, knows the contents thereof, and that it is true in substance and in fact.

MEYER ABRAMS.

Subscribed and sworn to before me this 27th day of June, A. D., 1935.

ROSE RITTENBERG,
Notary Public.

(Notarial Seal)

101 And afterwards, to-wit: On the first day of July, 1935, there was filed in the office of the Clerk of this court a petition of appellees to dismiss the appeal, which said petition is in the words and figures following, to-wit:

102 IN THE UNITED STATES CIRCUIT COURT OF APPEALS.
* * (Caption—5531) * *

PETITION.

Now come Kenmore-Granville Hotel Company, a corporation, Debtor, J. Gold, R. Sandroff and S. Isenberg, petitioning

creditors and George W. Rossetter, Jay C. McCord and Sidney H. Kahn as The Sovereign and The Sovereign Annex First Mortgage Bondholders' Committee, appellees herein, by their respective counsel, and represent unto the court as follows:

1. That on May 20, 1935 an order was entered in the above entitled matter in the District Court confirming a plan of reorganization therein; that on said date Nettie Meyer prayed an appeal in said court from said order which appeal was allowed.

2. That on or about June 7, 1935 petitioners made their motion in this court to dismiss the said appeal; that on
103 said motion the court allowed the appellant five days in which to file a brief in reply to the petition of the appellees to dismiss the appeal and allowed appellees one week to file a reply to appellant's brief.

3. That on or about June 7, 1935 Nettie Meyer presented her petition in this court praying an appeal from said order of May 20, 1935; that at said time appellees were allowed one week to file counter suggestions to said petition.

4. Such briefs and counter suggestions were filed by appellant and appellees respectfully.

5. That on or about June 26, 1935 this court rendered a memorandum opinion which contained substantially the following:

> "The petition for leave to appeal is denied, and the motion to dismiss the appeal allowed by the District Court will be entertained as being one from which the District Court may not allow an appeal."

6. The motion heretofore made to dismiss the appeal allowed in the District Court is undisposed of and is still before the court. In view of the language of the court in said opinion that "the motion to dismiss the appeal allowed by the District Court will be entertained * * *" petitioners desire, at this time, to call up the motion now pending to dismiss the appeal allowed by the District Court, for such disposition as the court sees fit to make.

Wherefore, your petitioners, as the appellees herein, pray that the said motion to dismiss the appeal allowed in
104 the District Court from said order of May 20, 1935 be disposed of, and that said appeal be dismissed; and they

further pray that the said appeal be dismissed on the authority of the opinion rendered by this court on the petition filed herein for leave to appeal from said order.

IRVING H. FLAMM,
MAX FREDERICK GOLDBERG,
EDWARD SONNENSCHEIN,
BERNARD NATH,
I. E. FERGUSON,
ARTHUR M. COX,
CLAUDE A. ROTH,
HARRY E. SMOOT,

By HARRY E. SMOOT,
Counsel for petitioners and appellees.

105 And afterwards, to-wit: On the ninth day of July, 1935, the following further proceedings were had and entered of record, to-wit:

Tuesday, July 9, 1935

Court met pursuant to adjournment and was opened by proclamation. Before:

Hon. Evan A. Evans, Circuit Judge
Hon. William H. Sparks, Circuit Judge

IN THE UNITED STATES CIRCUIT COURT OF APPEALS.
* * (Caption—5531) * *

It is ordered by the court that the appeal granted to Nettie Meyer, *et al.*, by the District Court of the United States for the Northern District of Illinois, Eastern Division, in this cause from an order entered by said District Court on May 20, 1935, approving a plan of reorganization, be, and the same is hereby dismissed with costs.

106 And afterwards, to-wit: On the twelfth day of July, 1935, there was filed in the office of the Clerk of this court a praecipe for record, which said praecipe is in the words and figures following, to-wit:

107 IN THE UNITED STATES CIRCUIT COURT OF APPEALS.
* * (Caption—5531) * *

PRAECIPE FOR RECORD.

To the Clerk of the United States Circuit Court of Appeals, for the Seventh Circuit:

You are hereby requested and directed to prepare the record for the Supreme Court of the United States, said record to consist of the following:

(1) Placita.

(2) Pages 59 to 64 Supplemental Report of Master contained in transcript.

(3) Pages 65 to 68 Objections contained in transcript.

(4) Pages 69 to 79 Amended Plan contained in transcript.

(5) Pages 73 to 92 Order of May 20, 1935, contained in transcript.

(6) Pages 93 to 96 Statement of Evidence, contained in transcript.

(7) Page 105 Petition for appeal contained in transcript.

(8) Page 106 Assignment of Errors, contained in transcript.

(9) Page 110 Order allowing appeal contained in transcript.

(10) Page 112 Praecipe for Record contained in transcript.

(11) Page 114 Additional Praecipe contained in transcript.

(12) Motion and Petition for leave to appeal.

(13) All orders.

(14) All Petitions and Motions (excluding suggestions and authorities).

You are requested to certify same to the Supreme Court of the United States.

MEYER ABRAMS,
Attorney for Nettie Meyer, et al., Appellants.

109 And afterwards, to-wit: On the seventeenth day of July, 1935, there was filed in the office of the Clerk of this court an additional praecipe for record, which said additional praecipe is in the words and figures following, to-wit:

IN THE UNITED STATES CIRCUIT COURT OF APPEALS.
* * (Caption—5531) * *

PRAECIPE FOR ADDITIONAL MATTERS FOR RECORD.

To the Clerk of the United States Circuit Court of Appeals for the Seventh Circuit:

You are hereby requested and directed to prepare a Praecipe for Additional Matters for Record in connection with the Praecipe of Record for the Supreme Court of the United States, heretofore filed with you, and to include therein the following:

(1) pages 22 to 50, inclusive
Joint intervening petition of George W. Rossetter, Jay C. McCord and Sidney H. Kahn, as the Sovereign Annex First Mortgage Bondholders' Committee and the Sovereign First Mortgage Bondholders' Committee, representing certain holders of the first mortgage bonds of said issues, filed pursuant to order of court entered on February 13, 1935, including Exhibits "C" and Amendment to Plan of Reorganization thereto attached, contained in transcript;

(2) pages 51 to 58, inclusive
Order of February 27, 1935, granting leave to said intervening petitioners to file their petition proposing a plan of reorganization instanter, contained in transcript;

(3) pages 97 to 102, inclusive, remaining portions of statement of evidence including memorandum signed by District Court Judge Barnes; contained in transcript.

MAX FREDERICK GOLDBERG,
Attorney for Kenmore-Granville Hotel Company, a corporation, Debtor.

UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE SEVENTH CIRCUIT.

I, FREDERICK G. CAMPBELL, Clerk of the United States Circuit Court of Appeals for the Seventh Circuit, do hereby certify that the foregoing printed pages numbered from 1 to 102 inclusive, contain a true copy of the Printed Record of proceedings in the District Court, printed under my supervision and filed on May 2, 1935, as called for by Item 1 of the Praecipe filed on July 12, 1935; and that the foregoing printed pages numbered from 103 to 106 contain a true copy of the proceedings had and papers filed in this Court, as called for by Items 2 to 4 inclusive of said Praecipe filed on July 12, 1935,

In the Matter of

KENMORE-GRANVILLE HOTEL COMPANY,
Debtor;

NETTIE MEYER,
Appellant,

5491 *vs.*

KENMORE-GRANVILLE HOTEL COMPANY, *et al.*,
Appellees,

and I further certify that the foregoing printed pages from page 107 to and including the first one-half of 170 contain a true copy of the parts of the transcript of the record of proceedings of the District Court of the United States for the Northern District of Illinois, Eastern Division filed in this Court on June 6, 1935, as called for by the appellants' Praecipe filed on July 12, 1935 and the appellees' Praecipe filed on July 17, 1935; and that the foregoing printed pages

from the last one-half of page 170 to 184 inclusive, contain a true copy of the proceedings had and papers filed in this Court, as called for by the appellants' Praecipe filed on July 12, 1935,

In the Matter of

KENMORE-GRANVILLE HOTEL COMPANY,
Debtor;

NETTIE MEYER, in her own behalf and on behalf of other objectors represented by Shulman, Shulman & Abrams,
Appellants,

5531 *vs.*

KENMORE-GRANVILLE HOTEL COMPANY, *et al.*,
Appellees,

as the same remains upon the files and records of the United States Circuit Court of Appeals for the Seventh Circuit.

IN TESTIMONY WHEREOF I hereunto subscribe my name and affix the seal of said United States Circuit Court of Appeals for the Seventh Circuit, at the City of Chicago, this 13th day of August A. D. 1935.

FREDERICK G. CAMPBELL,
Clerk of the United States Circuit Court of Appeals for the Seventh Circuit.

(Seal)

By K. J. CARRICK,
Chief Deputy Clerk.

[fol. 187] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1935

No. 375

ORDER ALLOWING CERTIORARI—Filed October 14, 1935

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit is granted, and the case is assigned for argument immediately following No. 157.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

[fol. 188] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1935

No. 376

ORDER ALLOWING CERTIORARI—Filed October 14, 1935

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit is granted, and the case is assigned for argument immediately following Nos. 157 and 375.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.